Mr. Nelson:

Q. Yes. What is the main thesis of your article? What [fol. 2054] is the main points you are trying to put, without delaying and without making it too long, I wish to have you state your views, your position on the Korean War, if it can be summarized briefly.

The Court: In other words, your interpretation of your article.

Mr. Nelson: Unless the Court permits to have it read to the jury.

The Court: It is already in evidence and we will not permit any long articles to be read to the jury. They may take it out with them and review it.

A. This is an Article which I wrote sometime in July of 1950 and it appears in this issue, dated August, 1950, which means this would have come out around July 25; we come out the month before, which means that I wrote this probably the first week in July. That is to say, I wrote this about ten or twelve days after the beginning of hostilities in Korea. The article is fairly long, about 8,000 words, and I will do my best to very briefly summarize the main ideas which I held then and hold now.

I began briefly with trying to tell the readers of the article something about the background and history of Korea [fol. 2055] and to indicate the very proud, cultural traditions and the great history of these people. I then moved into a consideration of conditions in Korea after the Japanese Empire had been defeated. I spoke of the Occupation.

Mr. Nelson:

Q. By the "Occupation", you mean the Occupation by Japan?

Mr. Cercone: I object to the leading question. Let the man interpret——

The Court: Anything uncertain we don't mind an interjection of a question. Certainly if that is what is meant, express it, Doctor.

A. I spoke of the occupation, the possession of Korea by Japan and the conditions which were imposed then on

the Korean people by this alien empire that had conquered their country. I then referred to the defeat of Japan and the liberation of Korea, in which the Korean people themselves played a key role and a very heroic one.

Then in the Article I discussed very briefly conditions in Korea, in South Korea and in North Korea, at the time that both were occupied by Russian troops and American troops. I tried to tell very briefly something of the condi-
[fol. 2056] tions which existed then. I also tried to bring out, by quotations from various magazines and newspapers, reports from Korea, like the Herald Tribune and the Times and Pacific Affairs and Virginia Historical Quarterly and so on, the conditions existing in Korea and I then went into a discussion of the nature of the regime of Syngman Rhee, the leader of the South Korean area.

I pointed out that the testimony of competent observers in Korea, and I quoted many of them, such as the political adviser to General Hodge, our Commanding General; newspapers such as the New York Times, magazines such as the "The Nation" to show that this person was a dyed-in-the-wool reactionary. That he was, and I am now quoting from the Article—in which I quoted the words of the political adviser of our General, a Dr. Berstog who said: "Syngman Rhee is two centuries before facism—A pure Bourbon." This is typical of the type of evidence offered here to characterize Rhee, as I believe he is correctly characterized, as an ultra-reactionary and as a merciless practitioner of forcible repression of the democratic strivings of the people of Korea. I demonstrated this also in terms of concrete evidence and quotation of the torture and the murder of liberals and democratics as well as socialists and communist people in Korea by the thousands and I took this from the Times and other sources of information, as well as the Report of the American Military Government in Korea.

[fol. 2057] I then went into a background discussion with the best evidence that I had at that time of the efforts of the Korean people to unify their country. I pointed out that their efforts at democracy and unification were violently suppressed and brutally by the Syngman Rhee clique or government. That this induced resistance on the part

of the Korean people, who are actually subjected to War, to murder by the Rhee ruling group. And this resistance, which was reported in the Herald Tribune and the Times and the Nation, that the New Republic was again crushed with the killing of thousands and the wiping out of hundreds of villages. I pointed out that this was so terrible and brutal that Syngman Rhee had lost all support or practically all support from the Korean people and that in the last election, which was held there prior to the beginning of hostilities, Syngman Rhee was terrifically defeated although the election was conducted in terror as the press, like the Times reported.

I pointed out that Syngman Rhee, having lost all support, facing the fact that the Korean people themselves had absolutely rejected him, that they had been subjected to terror by him and that in the last election they had voted, despite terror, overwhelmingly against him, that he had become desperate to preserve his position and I quoted his letters, which were then available in the press; more have since become available, but I quoted those which [fol. 2058] were then available, in which he appealed to people like Dulles and others to increase the military support of his government by the United States. The United States had never completely withdrawn its forces from Southern Korea. They withdrew many of these but it left 500 military advisers; he said, to send more and more arms. That was done and on the basis of the most careful survey of the available evidence that I can find then at the time, and with the presence of Dulles there a few days before hostilities began and with the nature of the Rhee government and a minority brutal reactionary facist type of government, I came to the conclusion that to assert which of the two attacks, North or South, and to assert above all with absolute unity in our press practically, so that it was clearly a one-sided assault. I declared in this article that that was highly doubtful on the basis of the available evidence.

I then went on to say that in my opinion for us to take this, at that time, unilateral action, and to send our troops, which at that time it was done, without the consent at that time either of the United Nations, even in the absence of The Soviet Union and China, and done at that time with-

out the consent of Congress and to this day without the consent of Congress, I declare that to send our troops to support such a reactionary government, which was oppressing the people of Korea, I say that was wrong. I said that would result in tragedy for us, in the loss of thousands [fol. 2059] of our men and in the destruction of the country of Korea six thousand miles away from us, and I called for opposition to the war openly in this article. I believe in the best democratic tradition I urged the American people to express themselves in letters to their Congressmen saying they don't want their sons to be sent to Korea to fight there in defense of this government of Syngman Rhee and to ask Congress to reject this and to call back our troops who had been sent there in the face of no declaration of war, and I ended by declaring, and I quote: "That this is the duty of patriotic Americans today"—and in saying that, I said, "That a person who loves this land and its people; a person who seeks dignity and equality and justice must join the ranks of Thoreau, Emerson, Lowell, Whittier, of Lincoln and Douglass, of Mark Twain and Howells, Randolph Bourne and Debs." And I went on to say: "Each denounced robber war in his day and each is honored for it today." That is what I said.

I went on to say that in the past other unjust wars had been condemned even by State Legislatures like Rhode Island, Vermont and Massachusetts and even by the House of Representatives of the United States which, after the Mexican War, adopted a resolution as denouncing it as unconstitutional. I said then that our duty was to oppose an unjust war while it was fought, not after the men were dead and buried. I said that it was more important to do that because it involved some dangers, some difficulties that [fol. 2060] one might be denounced, that one might even be jailed but I said that this is what I believed and I wrote this openly, in the open light of day. I spread it, I wrote it then, I hold it with it today, and I am proud that I wrote this article.

The Court: We will recess at this time until 1:15 P.M.

Noon recess.

[fol. 2061] Friday, January 18th, 1952.

Afternoon session.

Dr. Herbert Aptheker, resumes the stand and testifies further as follows:

Direct examination:

Mr. Nelson:

Q. Now the article which you explained to the Jury, which you wrote about the Korean situation characterized that as an unjust war. Is that right?

A. Yes.

Q. It means you were opposed to it and so were the Communists in the United States, is that right?

A. That is correct.

Q. What were the means that you proposed to use to carry through the opposition to that war?

A. Means of persuasion, letters, petitions, meetings, against those, such as that article, to spread that as widely as we could to convince the American people that our point of view was correct and to try to carry it to a certain pressure on the majority, to a certain pressure on the Legislature and Congress and through these means to halt what we felt to be an unjust war.

Q. Did the Communist Party ask for the overthrow of the Government because of this particular war—that is, advanced the policy which brought us into that war?

[fol. 2062] A. No. There was no mention of overthrowing of any Government.

Q. In other words, the opposition insisted in the idea of convincing our fellow Americans it was a long war and wanted to see it stopped?

A. That is correct.

Q. Now the prosecution would not read from the article this time they chose to read last year, at any rate, the witness Musmanno did. This year they didn't read it, do you suppose it is because up to now 70 per cent of the people were opposed to the war?

Mr. Cercone: That is objected to.

The Court: The objection is sustained. Note an exception. It is all in the record.

Mr. Nelson:

Q. However, the cartoon appearing in the magazine in the midst of your article was shown to the Jury. Will you please explain the meaning to the Jury as you understand it.

A. The cartoon which is rather clearly labeled tries to convey the idea that it is an unjust war, because the United States Imperialism is as we have attempted to define that term, Bourgeoise, the monopoly capitalists as seeking to perpetuate in Korea a very reactionary regime, a puppet regime to maintain by force and terrorism control over [fol. 2063] Korea for the profit and benefit of imperialism of the monopoly capitalists. This is the meaning of this cartoon.

Q. Now the prosecution witness, Cvetic, stated in this courtroom that the Communists make appeals to the Negro people because, as he said, they want to use the Negro people—that was the term used, the Negro people. What is your explanation concerning that, Dr. Aptheker? What would be your answer to that, using the Negro people as related here by the stool-pidgeon Cvetic.

Mr. Cercone: I object to the word "stool-pidgeon."

The Court: Strike out that part being "stool-pidgeon."

A. I would make the following two points under the remark by Mr. Cvetic. First of all, the Communist Party consists of people of all colors and origin in this country. There are Negro people in the Communist Party and there are White people. The Negro people in the Party have the full authority and the right, the full privileges, of course, and the full influence within the Party in making its policy, in working out its programs as do the White people in the Party. So to attempt to contrast an account of the Communist Party itself between its White and its Negro members, they are using one another is completely false to the nature of the Party most of all. The second point I would make to such a remark to that of Mr. Cvetic, is that his remark indi-

[fol. 2064] cates an arrogance and a chovinism and a White supremacy point of view which if it had not been present would not have led him to say that the Communist Party or any other or anybody is using the Negro people.

The clear implication of such an idea is that the Negro people are children or fools or clowns or have no mind of their own and are being subjected to use by somebody. Unless somebody so thought of the Negro people he could not present this, as the use of such a concept is arrogance supremesists, racists, and in that sense is directly against the classes of Marxist-Leninism and the principles of the Communist Party.

Q. Will you briefly then, Dr. Aptheker, explain what is the program of the Communist Party of the United States in relation to the Negro question briefly, because there were inferences made by the prosecution that our program is other than what they say it is on the Negro question. Would you please state it briefly?

Mr. Cerone: I object to that, your Honor. We are going to object to that as highly irrelevant in the matter.

The Court: I think it is permissible. One of the witnesses said he was in the Party and their policy was different. And he has a right to bring out any information to rebut that statement.

[fol. 2065] A. It is not an easy question to answer briefly but I will do the best I can. I would say that there are four fundamental parts to the position of the Communist Party as concerns the Negro people. These four are: first, complete politica' equality of the Negro people in the United States now. Second, complete economic equality in the terms of jobs, professions, wages and when hired in unions. There is complete economic equality of the Negro people now. Third, complete social equality of the Negro people now, no ghettos, no restrictive covenants, no restaurants only for white people, no waiting rooms only for white people. The Party, Marxism-Leninism, abhors and denounces any display of racism and demands and through those struggles for complete social equality of the Negro people now. Fourth: essential covenant is in the idea of self determination for the Negro people, particularly as we related to that area in the

South where they form a majority of the population and have formed a majority of the population for many years.

Self determination, that is exactly what it means for the Negro people, to determine for themselves what they want. It is a blueprint for nothing. It blueprints nothing. It is the logical extension of the struggles of the Negro peoples themselves for full equality, socially, politically and economically and in those areas where they are in a majority and historical enslavements and held as Peons, denied their political rights. This is wrong. They should have all rights and [fol. 2066] not having such rights they should determine for themselves democratically what they want. The Negro Governors, if this is correct, is what they want when in the majority, and they want Negro senators and didn't want restrictions. They want Negro sheriffs, Negro legislatures, men to represent the Negro people. There would be White legislatures, too, but now there is only White there. This is non-democratic. It is wrong. It is a reflection of the lack of equality. We insist on the right of self determination. This, I believe, within five minutes is an accurate summary of the Communist Party on the Negro question.

Q. Doctor Aptheker, of course you are familiar with the general program of the Communist Party in the United States as well as when its theoretical position which you expounded here, are you not?

A. Yes, sir.

Q. I mean the day to day program; the program the Party advances. Would you briefly summarize that as you did now in relation to the Negro conditions, because the prosecution here attempted to say that the Party was only interested for ulterior motives. Will you explain the Communist Party's position and what we stand for and how we fight for it?

A. Once again to answer that it is not very easy. The day to day program of the Communist Party as indicated in what it publishes, what it says, and as indicated in its work, includes such things as the struggle to obtain the rights for the Negro people.

[fol. 2067] For example, which I tried to make clear in my previous answer. It includes efforts to get Congress,

or in various States, State Legislature to pass fair employment practice act, which act would prohibit discrimination by employers on the basis of color, nationality or religion and so on. It struggled and has struggled to benefit the unemployed, for example, it did struggle for unemployment insurance and it is always in the forefront of all efforts by the unemployed to make the conditions of life, to make them somewhat less endurable than they are. The Communist Party is always in the forefront in movements to protest high prices or high rents, in movements to pass legislation to curb price increases, because such price increases hurt normally the people with small incomes.

The Communist Party always leads in such civic effort as more schools and better schools and more teachers and higher pays for teachers and other several service workers.

The Party pursues efforts to organize the working class and trade unions, and the Party leaders, most notably, of course William Z. Foster. Many such Party leaders have devoted practically their entire lives unselfishly in an effort to assist the working class to form unions, thereby being in a better bargaining position with the bosses.

The Communist Party has led in programs which it thinks would help farming business, all sorts of programs and the price a farmer gets for his crop and the methods by which he sells his crop and the produce.

[fol. 2068] The Communist Party in my experience, to my own knowledge, leads in the fight against any restriction of civil liberties in this Country, for example, it opposes loyalty oaths which in its view are of a witch-hunt character, of a character to introduce fear into the hearts of the American people so they begin to fear one another, or they fear somebody is looking into the plans to see what they are thinking. They think somebody is looking into their brains to see what they are thinking. The Party opposes this. It does this as we pledge our pamphlets, and I have written pamphlets devoted to the subject and tried to convince whoever reads the pamphlets, and it is a violation of the civil rights and freedom of speech. It is wrong and for all of us. These are some of the day to day efforts. Anything which discriminates, which oppresses, which causes hardship, evictions to discrimination against the

Negro people. This constitutes this and this is the day to day work of the Party and has been.

Now in terms of the other question which you asked, Mr. Nelson, as to the possible ulterior motive. This is related to the first question you put to me this afternoon in terms of using in that case the Negro people. Because they who charge ulterior motives insist that while some of the things may be all right they will say that the Party wants like no discrimination, they will say "Well, some things may be all right but you are using those things in [fol. 2069] order to inveigle your way into some peoples' hearts or some group and just using them and their feeling of bitterness in order to mislead."

Now the first answer to that is, as I answered your last question, it is a very arrogant attitude, a very snobbish attitude that there are people who are a bunch of puppets and fools and don't think and can't think and we come in there and use them. And by using them we have our own interest for our ulterior purposes. Such an argument can come from only one whose mind is affected with snob-ists and class arrogance. That is the first. And the second thing is the whole point of the Party in its day to day struggle is that the movement is a majority movement. As I have said and say again, it is a movement to convince the majority of the people that our point of view is right and that our interests are their interests, that we have no separation. Now if you are going to be convinced of this and the people are reasonable—we don't believe people are stupid—they are reasonable and understand and we go to them and we mean to convince them of our righteousness, our correctness in this position. We go to show we are sincere, that we are fighting for them and for ourselves. The whole idea of the ulterior motive is planned with and contrary to the whole spirit and the program of the Communist Party.

Q. The Communist Party participates and has participated in elect-ral campaigns, has it not, amongst these points you mentioned just previously?

[fol. 2070] A. Yes, of course, the Communist Party have had candidates for President, Governor or for Senator,

Councilman, and it is a political party and has been and has a program and its candidates campaign and issues leaflets and it tries to get people to vote for its candidates.

Q. And at times it supports people on other tickets?

A. Yes, there are times that it has.

Q. Even people not Communists and anti-Communists?

A. Yes. It is doubtful there are people who are not in support of the Party and there are candidates who are not Communists.

Mr. Nelson: May we approach the desk?

The Court: Come forward.

Mr. Nelson: Your Honor, I have just received a transcript of the Crouch testimony, and looking through it hurriedly this noon time I was able to see that most of the statements that were made by him have been answered, that is statements in reference to theory and those kind of questions and it would take time to go into them and I am willing to go into it, but I frankly feel the questions have been squarely met already. And Mr. Crouch in- [fol. 2071] troduced three pamphlets which I called attention to during the close of the trial. One was "The Program of the Communist International; the other one was a pamphlet: "High Communism" by Olgin. And the third was one by Peters. Those three pamphlets have not been used by the Communist Party to the best of my knowledge since 1930. And they have been repudiated and the distortions that were quoted from them were for the convenience of the prosecution to make it more prejudicial and make it appear and that my organization is subversive as he claims it was.

The Court: You can ask this witness on those points if you wish.

Mr. Nelson: I want to do that before I wind up some general questions I have.

The Court: You can ask him if they had been in use and approved: And as far as Crouch's testimony is concerned it is up to you whether or not you want to qualify it. He has answered everything so far as theory is concerned. [fol. 2072] Mr. Nelson: There was reference about a so-called school.

The Court: You can turn this witness over for cross-examination at any stage and engage him in redirect.

Mr. Nelson: One more request, your Honor—I think there is an agreement on that but I want Mr. Cercone to give me permission, both in the place where the material or letter is. I have no chance to take advantage of the material.

The Court: Yes, if you can have someone present.

Mr. Cercone: I was there last Saturday when Mr. Dolsen was in.

The Court: You will provide someone be present from nine to twelve.

Mr. Nelson: Let us agree for tomorrow morning at anytime.

The Court: Would it suit you tomorrow morning or afternoon?

Mr. Cercone: No.

[fol. 2073] The Court: Could you have someone else present?

Mr. Cercone: We could do that this afternoon. I can come back at six or seven o'clock tonight. I would like to leave about 2:45.

The Court: Make it at seven o'clock tonight and Mr. Cercone will meet you in the District Attorney's office.

Mr. Nelson:

Q. Now the prosecution witness, Crouch, testified here to the effect that there was a certain school held in Oakland, California, in 1941 and that certain pamphlets were used in that school. Do you know whether or not a pamphlet introduced by Crouch in this trial here, the name of the program of the CI, whether that has been used in the Party since you have been a member? You have been a member since 1939?

A. Yes, sir.

Q. Do you know anything about it?

A. Yes.

Q. Do you know anything about it?

A. The program or the CI?

Q. Yes.

A. No. That is one of the pamphlets which was rejected by the Party for many years before I had become a member

[fol. 2074] of the Party. I know it was not used by the Party since that time, since 1939.

Q. When you say it was rejected, by that do you mean the American Communist Party didn't feel that that particular program was applicable to the United States—is that what you mean?

A. That is right.

Q. Do you know or have you heard any reference to another pamphlet introduced by Crouch called "A Movement and Organization by Peters?" Was that used since your have been a member of the Party or do you know if it was at anytime used?

A. It hasn't been used at anytime in the Party since my membership, but I haven't heard of it since 1939.

Q. Why not?

Mr. Cercone: That is objected to.

The Court: I think the objection is well taken. He is not acquainted and he wouldn't know why it was not used.

Mr. Nelson:

Q. But you haven't seen it since you have been a member?

A. No, sir.

Q. Do you know of a pamphlet called "High Communism" by Olgin?

A. Yes, I know of that pamphlet.

Q. Do you know if it has been used while you are a member or while you have been a member?

[fol. 2075] A. No, sir. I don't believe it has been.

Q. Why was that pamphlet not used by the Party?

Mr. Cercone: That is objected to on the same grounds.

The Court: He said he doesn't believe it has been used so I imagine his information is very limited on that and the reasons for its disuse, the disuse wouldn't probably be within the knowledge of the witness, and I wouldn't have him conjecture on it.

The Court:

Q. Am I correct in my statement, Doctor, that you are limited in your information on that?

A. I think so, yes.

Mr. Nelson:

Q. Now these are brief questions that I would like to have you comment on. You are qualified to state your opinion. What is the organizational structure of the Communist Party of the United States?

A. Well, it consists of a national headquarter, of a national body and a state-wide body and of local bodies connected to the state, the states of the nation, very much like other political bodies or other national organizations. This [fol. 2076] is especially the structural outline of the organization of the Communist Party.

Q. How is the program worked out and arrived at in the Party?

A. It is arrived at and worked out by the Party members, by the Party leaders very collectively. It is arrived at through discussion in local groups and state groups and national groups and committees, by leaders and by the whole bodies of the members. There are conventions which are held in which further discussions go on. There are conventions and discussions about various conditions and about which there is a variety of opinion. These are resolved in terms of the state and terms of majority agreement that this is correct and isn't correct. This is the manner of arriving at the program of policies and ideas of the Party Organization.

Q. How is the national leadership elected or selected or how is that worked out?

A. It is selected by a body of the members of the Communist Party.

Q. You mean at conventions?

A. That is correct. There are regular bi-annual conventions provided for in the Constitution of the Organization when delegates are elected to that by the whole body of the Organization, and various officers of the Organization are elected at the convention.

Q. When was the last national convention held, to your knowledge?

A. In 1950 I believe, in December. It seems to me 1950 [fol. 2077] Q. Where was that held?

A. New York City.

Q. Was this convention known or was it a publicly advertised convention?

A. Yes, sir, it was known and advertised.

Q. What is your comment on the statement of several of the witnesses here that the Communist Party is a foreign dominated organization or an agent of a foreign power?

A. This is false. The Communist Party is a political party of the United States. It is dominated by nobody but its members. It is an American Party and it strives for Socialism fundamentally on the basis of the American History and the needs and the desire of the American people.

Q. What is your comment or explanation that the Communist Party is a secret organization?

A. This is a false accusation. The Communist Party is a political party, its leadership is known. Its conventions have been held publicly. Its publications are broadcast as widely as possible. Where there is in terms of the Party differences, it is natural where there is any element of secrecy involved, in terms for example, of an individual member—this is not really — was done—I mean it is not happily done. It is a consequence of persecution or pressure of a person, let us say, having a doubt, if a person is known to be a union member and is being fired. Most organizations didn't speak of organizations like the Knights of [fol. 2078] Labor. They were faced with such prosecution and there have been instances of the Party's people for broadcasting and their membership, but this is the only instance which is to me — perfectly logical approach and it is clear on that type of thing. But the Party as a whole is an open organization seeking reform and seeking socialism.

Q. Doctor, would you please tell the Jury what is your interest in this case? What I mean by that is, some of the prosecution witnesses are getting paid for what they are saying here. What is your purpose in coming here and testifying—what is your purpose?

A. Well, there are quite a few purposes. First, I want to do what I can, Mr. Nelson, to help you. I am a friend of yours and we have known each other for quite a few years.

Mr. Cercone: Your Honor, may I have a side bar conference. I want to ask one question.

The Court: Come forward.

Mr. Cercone: I submit that the purpose of this witness is absolutely indicated by his testimony. I mean I think it is wrong for him to summarize what his testimony indicates for a purpose. That is for the Jury to decide on that. He has been here three days and certainly his purpose is re- [fol. 2079] vealed in his testimony.

Mr. Nelson: It is the last question I had, your Honor.

The Court: He can ask and I think we will let him go. He could go far afield and express a lot of things if that's his purpose but I think we will risk that.

Mr. Nelson: That is the last question.

The Court: You may continue, Doctor.

A. In explaining my interest in the case I began by saying there were many factors which we mean here to justify. One is, because I know and respect and admire Mr. Nelson and his family, and I believe——

The Court: Not your belief. We will have to limit you on what you believe. You are here and interested in him and his family?

A. Yes, and I wish to assist in his success. I am here also because I am devoted to the principles of Marxism and Leninism, and to the principles of my Party, and because both principles which I hold, dearer than my life. I am very eager to defend these principles, the principles that have been brought into Court that have been, I believe, I think [fol. 2080] distorted and in terms of this prosecution and since this is my whole life I have come to defend Mr. Nelson and defend the integrity of Marxism-Leninism and of my Party. I believe that in defending him and the Party I am defending the best interests of my family.

The Court: I think we will have to limit you.

A. And my people and of my country.

The Court: We will have to limit you on that.

A. I say we have involved here——

The Court: I will have to limit you and strike out the last remark. I told you originally I wouldn't permit you to in-

dulge or express a belief and argue the case. That is a matter for the defendant after.

A. I didn't know I was doing that. I am sorry.

The Court: That is all right. I accept your explanation. However, any other interest or motive or your belief in connection any ideas of the prosecution or demonstration of it [fol. 2081] I think is beyond the realm of the question.

A. May I say here that one of my basic interests is that I wish to defend civil liberties and beliefs such as involved here, and this is another of my interests in testifying in this case.

The Court:

Q. The Party's interest and the civil liberties and the interest of the defendant. Anything else?

A. Yes, and the further point that I think is involved here is the struggle for the people. I believe it is for the people and the interests of my country as the American people.

Mr. Nelson: You may cross examine.

Mr. Cercone: Your Honor, may we have about a five minute recess?

The Court: Yes, we will grant you that privilege at this time.

Cross-examination.

Mr. Cercone:

Q. Now what is your full name again?

A. Herbert Aptheker.

Q. Where do you live, Mr. Aptheker?

A. In Brooklyn, New York.

[fol. 2082] Q. What address is that?

A. 1015 Washington Avenue.

Q. Were you born there?

A. Not at that address. I was born at Brooklyn, New York.

Q. Have you lived there all your life?

A. Yes, sir.

Q. Now you say you are a Communist, is that right?

A. Yes, sir.

Q. And you have been a Communist for quite a long time now?

A. Since 1939.

Q. Would you tell us the exact place and the exact date that you became a Communist?

A. No, no, because I don't remember. I can give some advice. It was in New York City and the exact date I don't know, that is in the sense of the day and the month.

Q. Which unit in the City did you join?

A. I didn't join a unit as such. I was a member and I had membership in a local neighborhood group, a neighborhood section.

Q. And do you recall the name of the organizer or this unit of that area?

Mr. Nelson: I object, your Honor. This goes back ten or twelve years and what light is that going to throw on the question. He admits he is a member of the Party and this is only a means of attempting to involve the witness by the [fol. 2083] prosecution and I think it is wrong.

The Court: Very well. We will sustain the objection.

Mr. Cercone:

Q. All right, you said you have been a member of the Communist Party since 1939, and of course having been a member that long you are familiar with the national offices of the Communist Party. Is that right?

A. I know several.

Q. Now you spoke of William Z. Foster—you know him to be the national chairman of the organization?

A. That is right.

Q. Now do you know that Mr. Foster went to Russia many times on behalf of the Communist Party of the United States?

Mr. Nelson: I object to that, the way the question is placed. If he wants to know if Mr. Foster went to Russia that would be one question. He doesn't know on what behalf he went there.

The Court: If he knows.

Mr. Nelson: It is sort of a loaded question.

[fol. 2084] The Court: Break it into two parts.

Mr. Cercone:

Q. You know he went to Russia many times?

A. That is a matter of public record, of course.

Q. Then he went there to attend the Seventh World Congress of the Communist International. Is that right?

A. I believe that is true.

Q. Well, you know that is true?

A. Yes, I think it is true.

Q. And he was accompanied by many; many members of the Communist Party of the United States at that time?

A. I don't know.

Mr. Nelson: That is objected to, your Honor.

The Court: If he knows. It is the connection of the Communist Party of the United States with the Communist International for the Communists of other countries. It has been touched on and I think this witness can be interrogated of his knowledge of the subject.

A. The fact is of my answer, I don't know that.

Mr. Cercone:

Q. Have you learned that from your studies of the Communist Party?

[fol. 2085] A. I think it is the fact that he went there and I went with him.

The Court:

Q. What did you say, the Seventh World Congress of the Communist International?

A. Yes.

Mr. Cercone:

Q. And of course, as a mascot?

A. Yes.

Q. And it was held in 1935?

A. Yes.

Q. Is that the last World Congress of the Communist International?

A. Yes.

Q. That is, 1935 was the last one?

A. That is right.

Q. Then you have testified here at length, for almost two days about your great knowledge on Communist organizations and Marxist-Leninist theory and as a Communist you advocate the seizure of private property, namely, the railroads. Is that right?

A. I will wait until you have finished your question.

Q. That is right. Do you include railroads in your program?

A. The way you placed the question, it will not do justice to the Jury if I answered it yes or no.

Q. Well, that is my question.

[fol. 2086] The Court: Well, strike out railroads and limit it to the first part of the question. What was the question before you without the specific example?

Mr. Nelson: Your Honor, that is objected to because of the term used "seizure". Did he mean justifiable seizure?

Mr. Cercone: I just used the word seizure.

The Court: Answer the question. I think it is a fair question, Doctor.

A. You can alter the wording as you may understand it. Seizure may mean confiscation or taking over.

Mr. Cercone:

Q. If I may clear this up. You testified yourself during two days railroads were included in the program, you were going to seize or confiscate the railroads?

A. I didn't say that and please don't surmise what I said.

Q. Tell us what you said. Will you first answer the question so we don't get into twenty questions.

Q. Does your program advocate the seizure of railroads? I think that is the substance of it. It may not be as extensive as that but I think it is the substance.

A. The long term program of the Communist Party is Socialist——

[fol. 2087] Q. Just a minute. Don't give me all of that business again.

A. If we discuss social science I can't answer yes or no.

Q. Did you, as a Communist, and the members of the Com-

munist Party, did you advocate the seizure of private property?

A. I repeat that it is impossible to answer such a question yes or no and do justice to the purpose of clarity.

The Court:

Q. Answer yes or no and then explain for the purposes of clarity, Doctor?

A. I will then say no, because when it is put to me you are a Communist advocate for seizure, this question is so verbally loaded.

Mr. Cercone:

Q. It is very plain English. It is in very plain English language?

A. If you will permit me to answer the question I will appreciate your courtesy, sir. It is so verbally loaded that if I answered any other way it would be falsifying it because the program, the program of the Communist Party in the United States doesn't include in it nowhere in the program of the Communist Party of the USA, is there any mention of seizure of railroads or any other private property. There is mention in the program of the Communist Party itself for Socialism. Now in terms of your ques- [fol. 2088] tion this means that the Communist Party believes that a Socialist economy is a better one, more productive, better for people than a capitalist one and that a socialist economy brought about by the majority of the people would result in the collective socialism for certain means of product. That is the way I would answer the question.

Q. That includes railroads?

A. Yes, sir.

Q. I show you the Manifesto, Commonwealth's Exhibit 15 and direct your attention to this sentence. This sentence says in a word of reproach that you intended to do away with the property and you said precisely so. That is just what we intend.

Mr. Nelson: Well, that, your Honor, was answered.

The Court: This is cross examination and I will have to refuse your objection and he can answer it again.

Mr. Cercone:

Q. I direct your attention to page 23 of that same exhibit and direct your attention to that sentence and it says in this sense the theory of the Communist may be summed up in a single sentence, abolition of private property.

The Court: You want to impose a question based on two of those excerpts?

[fol. 2089] Mr. Cercone:

Q. Just a minute. My question to you based on those two sentences of the Manifesto and based on your own testimony yesterday that you, as a Communist advocate the seizing of private property. Is that right?

A. No. May I have the exhibit, please?

Q. Yes.

(Exhibit handed to the witness.)

A. I have in my hand a 103 year old pamphlet. It would have helped if you gave the same sentence, Mr. Cercone.

Q. It is on page 23 and 25.

A. I answered your extraction of this in my direct testimony. I pointed out that in 1848 Marx and Engels wrote a sentence reading in this sense: the theory of the Communist may be summed up in a single sentence, abolition of the private property. Mr. Cercone read again. He put—he then read another sentence I think also was in the indictment excerpt. He just said also from this pamphlet in a word you reproach us for intending to do away with your property, precisely so; that is just what we intend. That is from page 25 of the Communist Manifesto. In my reply yesterday to this direct question I pointed out to the Jury that the first quote, the first sentence started in this sense—in what sense. The previous paragraph tells us the abolition of the private property. The next one says [fol. 2090] you reproach us, did you? Who is you? The context tells us immediately it is a Bourgeoise.

The monopolists, capitalists and you.

Now in answer to Mr. Cercone's question which I have to do in this way in order to get around it, the distortion of leaving out the Bourgeoise, the class concept. I say then

and I say again that this sums up in a sentence the Socialist vista of the Communist movement, the long range program of this movement could be arrived at by majority decision when the people in the majority control the Government and they vote and they desire to eliminate Bourgeoise property as in another case as they desired and voted to eliminate slavery property. This is the full answer to that property.

Q. All right. What is Bourgeoise property?

A. I have already defined Bouregoise property and will do so again.

Q. Define it again.

A. To understand it I define Bourgeoise property that is Bourgeoise property. The Bourgeoise in a system consists of the owners of the means of production, that is, to be specific, the few, the handful who control the great factories, the great meat resources and the means of production, the means of producing.

Q. You are not answering the question. What I want to know, what is Bourgeoise property?

A. I have just about finished answering the question. The property which I just defined in my answer, Mr. Cercone, is Bourgeoise property.

[fol. 2091] Q. Well, just what does it include, the real property, what does it include?

A. The great factories, the mines and so forth.

Q. All right, so you are going to try to take the great factories, mine factories, automobile factories, the television factories, the radio system, the telephone system and telegraph system and the water powers and you are going to take that. Is that right?

A. No.

Q. What are you going to do?

A. No. I answered it several times. For example, I live in New York City, the subway *city* in New York City is owned by the city and by the people of New York City. This was not seized. It was a democratic construction and will of the people of New York. This is something I have in mind and can't be conveyed, it isn't to seize property.

Q. You say you are not going to seize the property?

A. I have said that.

Q. You have also stated on a question from this defendant as to whether or not you ever knew anybody in the Communist Party of the United States who advocates force and violence?

A. I answered this question negatively.

Q. And you said no, is that right?

A. That is right.

Q. Do you know William Z. Foster?

A. I do.

[fol. 2092] Q. And do you know he advocated violence?

A. No.

Q. Do you know when he ran for the Presidency of the United States he advocated violence?

A. No.

Q. You don't know that?

A. No. What year do you have reference to?

Q. The last time he ran?

A. What was that?

Q. When?

A. I think 1932.

Q. You know, don't you, when he was a candidate for the United States as President he said that the Communist Party would come into power not through election but by force of the Red Army?

Mr. Nelson: That is objected to.

The Court: The objection is sustained unless you are prepared to follow it up.

Q. Do you know if William Z. Foster made that statement? Do you know that?

A. No.

Q. You don't know that?

A. No.

Q. I am going to show you Mr. Foster's statement before [fol. 2093] the Investigation Body before the House of Congress, investigating Communist activities in the United States and Mr. Foster?

The Court: You will have to ask the witness first if he is acquainted with that before you read or quote from it.

Mr. Nelson: I think the answer is he wasn't acquainted with such a statement.

Mr. Cercone: He said Mr. Foster never advocated force and violence.

The Court: Ask if he is acquainted with the paper.

Mr. Cercone:

Q. Are you acquainted with this testimony before the House?

A. No. This is back in 1932, do you say?

Q. No—this is 1932, that is right.

A. 1932? I am not acquainted with this.

Q. I am going to show you this. Just refer your attention to that. I want you to look at that.

A. Just look at it?

Q. Mr. Foster was asked a question.

The Court: He says he don't know anything about it and you can't read anything he doesn't know about as a matter [fol. 2094] of proof by him. If you want to contradict you may in rebuttal.

Mr. Nelson: He didn't testify to these things.

Mr. Cercone: He said he didn't know of any member of the Communist Party, who advocated force and violence.

The Court: He still says he doesn't know and you will have to prove it. It isn't subject to cross examination when he doesn't know anything about it.

Mr. Cercone:

Q. Have you heard of Gus Hall?

A. Yes.

Q. Who is he?

A. He is a leading member of the Communist Party.

Mr. Nelson: Your Honor, may we approach the bar at side bar.

The Court: Yes, you may.

Mr. Nelson: Your Honor, I think that the prosecution is attempting to smuggle in some prejudicial material [fol. 2095] against me here because he knows that Mr. Gus Hall is in jail and there was a lot of publicity connected around his name and so forth and it is contending to convey the impression I ought to be put in the same place.

The Court: If you hadn't told me I wouldn't know it myself.

Mr. Nelson: I want to call it to your attention but I think he knows.

Mr. Cercone: He asked yesterday if any members of the Communist Party advocated force and violence and you have a right to testify.

The Court: Ask if he knows.

Mr. Nelson: What about the question of him being in jail?

The Court: That doesn't have to be brought out.

Mr. Cercone: I want to show he was convicted for advocating force and violence.

Mr. Nelson: That isn't true. He was the CIO organizer [fol. 2096] at that time.

Mr. Cercone: We got to show that and it is absolutely pertinent and he was a member of the Party. We never brought it in our case on direct. He opened the way.

The Court: You are not going to put that in by way of Gus's statement. I have been trying to prevent that. You may ask the witness if he knows Gus Hall. You may ask the witness if he knows of the activities or any statements and ask him if he knows whether or not he, at anytime, advocated force and violence.

Mr. Nelson: What about myself?

Mr. Cercone: Ask if he was convicted of force and violence? I will have to show that? The way is opened. We didn't bring it in. He brought it in.

Mr. Nelson: But what Mr. Cercone has in mind, there was a strike around Youngstown and Mr. Hall was the regional director under Mr. Murray and Good, and he was arrested and certain organizers arrested charged with [fol. 2097] violation of the picket lines, which also always occur in the course of strikes and that is what he has in mind.

The Court: Leave out the word "arrest" and "violence and force". He can answer if he knows. I am limiting him on it. This witness is subject to cross examination on whether or not he knows anybody using force and violence and if these are instances where people are charged

and if he knows he can be out. I don't think we ought to get into the conviction set-up.

Mr. Cercone: We never brought it in our case but since he brought it in we have a right.

The Court: It goes to his credibility, the idea of his opinion as an expert.

Mr. Cercone: He has spoken for the whole Party and everything.

The Court: You can develop that if he knows the activities of certain individuals. You can develop that and ask if he knows Gus Hall's activities and whether or not [fol. 2098] he engaged in the use of force and if he says no you cannot proceed.

Mr. Cercone: He can say no to every question. I can say he was charged with it.

The Court: You can ask him if he was charged with force and violence.

Mr. Nelson: There was no overt act charged.

The Court: You can ask him about specific instances of people charged with force and violence and if he knows he can explain himself.

Mr. Cercone: Can't I bring in the fact he was convicted of it? It is clearly within the scope of the question.

Mr. Nelson: Are you trying people in New York City or trying people here?

Mr. Cercone: I am not going into the facts.

[fol. 2099] The Court: I don't know what the charge was.

Mr. Nelson: Do you have in mind the Smith Act case?

Mr. Cercone: They are charged with force and violence.

Mr. Nelson: It is not true.

The Court: You can establish that fact or you will have to produce some other evidence on it.

Mr. Cercone: He can say he doesn't know.

The Court: Are you going to say he does know. That isn't in evidence and you can't read what somebody else said.

Mr. Cercone. He goes on the stand as an expert and I can confront him with somebody else's opinion.

Mr. Nelson: I want to get this clear. This man testified and gave an explanation and interpretation of the theory, program and activities and I can't see how this man or any other witness should be questioned about other trials

[fol. 2100] taking place or that may have taken place. What does that have to do with my case here?

The Court: Its prominent people are concerned with the program of using force or advocating violence?

Mr. Nelson: I can ask whether or not you charge or advocated or charged with doing it.

Mr. Nelson: A lot of people could be charged with a lot of things.

Mr. Cercone: You are asking the question if members of the Communist Party did.

Mr. Nelson: I asked the question and he answered it. It has nothing to do with us if other people are arrested and charged and there is a hysteria.

The Court: You asked the question if he knew anybody who used force and violence.

Mr. Nelson: If it goes to the question of arrest, your Honor, I don't know the law.

The Court: You will have to first give this man an opportunity to see if he knows the situation. You can't [fol. 2101] read into the record of certain things that happened to other individuals and he is not acquainted with.

Mr. Cercone: The matter of the first question is does he know Gus Hall advocated force and violence. Do you mean to say he is going to say yes?

The Court: I don't know.

Mr. Nelson: If he was arrested and charged. Does that mean that is a fact?

The Court: It is affecting his credibility. He says he don't know anybody who used it. Go ahead and ask a few questions. You can enter an objection. Leave out the nature of the conviction, or the matter of the conviction.

Mr. Cercone:

Q. Now do you know Gus Hall?

A. Yes.

Q. Who is Gus Hall?

A. He is a leading member of the Communist Party of the USA.

Q. And of course, you having been a member yourself [fol. 2102] since 1935 and having testified here as an expert

on the activities of the Communist Party you are familiar with the activities of Gus Hall, aren't you?

A. I am familiar with him to a degree.

Q. That is right. Did he ever advocate force and violence or the overthrow of this country by force and violence?

A. Most certainly not, to the best of my knowledge.

Q. Of course you know he was charged with overthrowing the Government by force and violence?

Mr. Nelson: That is objected to.

The Court: The objection is overruled. Exception noted.

A. I know he was not charged as you have just said. That is wrong.

Q. What was he charged with?

Mr. Nelson: That is objected to and I don't think it is a matter for the record.

The Court: The objection is overruled and an exception noted.

Mr. Nelson: Do you mean he has to tell charges in connection with somebody else?

The Court: He says he knows of no one advocating force [fol. 2103] or using force when asked about this particular man, Gus Hall, and he says he knows his activities to a limited degree but this man hasn't used force.

Mr. Nelson: Musmanno charged me with using force and it is a damnable lie.

Mr. Cercone:

Q. What was he charged with?

A. Mr. Gus Hall was charged not with advocating the overthrow of the Government of the United States by force and violence. He was charged with conspiracy to advocate and teach this.

Q. That is right, which is the same thing.

A. No, sir, I beg your pardon.

Q. But you know he was convicted?

Mr. Nelson: That is objected to.

The Court: The objection is overruled. Exception noted.

A. Mr. Hall was convicted of this charge, yes.

Q. And he was one of the national leaders of your Party, is that right?

A. Yes.

[fol. 2104] Mr. Nelson: That is objected to.

The Court: The objection is overruled.

Mr. Cercone:

Q. Do you know if after his conviction and sentence he ran away to Mexico?

Mr. Nelson: That is objected to.

The Court: The objection is sustained as to that.

Mr. Nelson: I move it be stricken, your Honor.

The Court: No further questioning. The only reason I am permitting the question concerning other individuals is because of the witness's statement he says no one else advocated the use of force and violence in connection with the matters discussed and he is subject to cross examination of any individual within his knowledge and Gus Hall is apparently one of them but what happened afterwards is beyond the realm of cross examination.

[fol. 2105] Mr. Cercone:

Q. Do you know Eugene Dennis?

A. Yes, I know Mr. Dennis.

Q. Who is he?

A. Another leader of the Communist Party.

Q. What office does he hold?

A. General secretary of the Party.

Q. How long was he general secretary of the Party?

A. I don't know the answer to that.

Q. But you are familiar with the activities of Eugene Dennis, aren't you?

A. To a degree.

Q. Do you know he was charged with conspiracy to advocate an overthrow of the Government by force and violence?

Mr. Nelson: That is objected to for the same reason.

The Court: The objection is overruled.

A. Certainly I know he was.

Q. And you know he was convicted?

Mr. Nelson: You know he was framed. You know it.

The Court: That is objected to and the word "framed" also is objected to.

[fol. 2106] Mr. Nelson: And there were other members of the Supreme Court says it and you know it.

Mr. Cercone:

Q. Do you know Benjamin Davis, Jr.?

Mr. Nelson: Yes, and he was framed, too.

The Court: The objection is overruled.

A. I have had the honor.

Mr. Cercone:

Q. What was Benjamin Davis, Jr.?

A. Do you want me to answer the question? I didn't, sir.

Q. Do you know him?

A. I had the honor to know Mr. Davis.

Q. Do you know that he was charged with conspiracy for the overthrow of the Government of the United States by force and violence?

Mr. Nelson: That is objected to.

The Court: The objection is overruled. Exception noted.

A. No, sir. You have a misstatement there again.

[fol. 2107] Mr. Cercone:

Q. What was he charged with?

A. Mr. Benjamin Davis, Jr., former city councilman of New York City was charged with conspiring to advocate and teach the overthrow of the Government of the United States by force and violence.

Q. I left the word teach out.

A. You left several words out.

Q. You completed it now?

A. I certainly did.

Q. And you know he was convicted of that charge?

A. Of that charge, yes, he was convicted.

Q. Now you know Irving Potash?

A. Slightly.

A. Slightly?

A. That is what I said, slightly.

Q. How do you know him—what was he in the Communist Party?

A. He is another national leader of the Party.

Q. That is right. And of course you know of his activities in the Communist Party?

A. As a matter of fact, basically I know only of his heroic activity in the Trade Union movement.

Q. What else?

A. I said I know as a matter of fact, I know best his heroic activities in the Trade movement drive.

Q. That is one?

A. That is all I know. I have my opinion.

[fol. 2108] Q. Was he convicted of that crime?

A. Yes, Mr. Potash was convicted.

Q. Do you know a man by the name of Jacob Scartel?

A. Scartel?

Q. You know him better than I do, sir.

A. This is your life, sir.

Q. How long have you known him?

A. I couldn't place how long. It is a few years I would say that I have known him personally and seen him.

Q. Do you know he was charged with conspiring and advocating and teaching the overthrow of the Government by force and violence?

A. Yes, he was so charged.

Q. And do you know he was convicted?

A. He was.

Q. Do you know Henry Winston?

A. I have that honor, too.

Q. What position did he hold in the Communist Party?

A. The precise position I don't recall.

Q. Was he organizational secretary?

A. It is very possible he was. He was the national leader of the Party.

Q. Was he charged with conspiring and teaching for the overthrow of the Government by force and violence?

A. Yes, sir.

Q. And do you know he was convicted?

A. That is right.

[fol. 2109] Q. Do you know Robert Thompson?

A. Yes.

Q. Where was he in the Communist Party of the United States?

A. He was another leader of the Party.

Q. Do you know what position he held in the Party?

A. I think he was the chairman of the New York State Party but I am not positively sure.

Q. Do you know he was charged with conspiracy to advocate and teach the overthrow of the Government of the United States by force and violence?

A. Yes, he was charged.

Q. And do you know he was convicted?

A. That is right.

Q. Do you know John Williamson?

A. Yes, I know Mr. Williamson.

Q. What position did he hold in the Party?

A. Also a leading position nationally in my Party.

Q. And do you know he was charged with conspiring to advocate and teach the overthrow of the Government of the United States by force and violence?

A. Yes.

Q. And you know he was convicted?

A. That is right.

Q. Do you know Carl Winter?

A. Yes.

[fol. 2110] Q. Do you know what his real name is?

A. No.

Q. Do you know his real name is Philip Weisberg?

A. I have already answered your question, sir. You asked me if I knew his name and I said no.

Q. What position did he hold in the Communist Party?

A. I don't know the exact position but he was a leader of the Party.

Q. And do you know he was charged with conspiring and advocating and teaching the overthrow of the Government of the United States by force and violence?

A. I know that.

Q. And do you know he was convicted?

A. That is correct.

Mr. Nelson: This is all objected to.

The Court: Note an objection and overrule the objection and an exception for each instance.

Mr. Nelson: I think this is going far afield and being done over my objection. It is being done because the prosecution is being favored by these objections.

The Court: You have an exception.

[fol. 2111] Mr. Cercone:

Q. You said and of course it is only your opinion that the Communist Party did not advocate the overthrow of the Government of the United States by force and violence. Did you state that?

A. Yes.

Q. Do you know that the Congress of the United States has found officially that the Communist Party of the United States is an International conspiracy to do so?

Mr. Nelson: That is objected to, your Honor. With all kinds of standards being made before the Un-American Committee and that is the kind of stuff he is bringing in here.

The Court: The objection is sustained.

Mr. Nelson: I thought you were going to quote from the Constitution.

The Court: We are not trying any other case. The only reason he is being permitted to answer questions because of the statement he knows of no one else and that is the limited things within his knowledge and what else there is we are not concerned with here. We will recess at this time until Monday morning at 9:30 o'clock.

[fol. 2112] Monday, January 21, 1952.

Morning Session

Mr. Nelson: May we approach the bench, your Honor?

The Court: Come forward, gentlemen.

(At side bar.)

Mr. Nelson: Your Honor, in the Saturday, January 20th issue of The Pittsburgh Press, the story, "I Led Three Lives" by Herbert Philbrick appears very prominently on the second section with a picture Judge Medina and the picture of the eleven Communists that were convicted in New York and this display of this material at this time is obviously planned by the forces behind this prosecution and under the circumstances a fair trail is impossible since every juror has been fed this stuff for months now and which Mr. Cercone was permitted to raise the question [fol. 2113] in the court room and it was not permitted to be raised in the last trial. It appears to me that a fair trial is absolutely impossible and I move for the withdrawal of a juror and make a motion for a mistrial.

The Court: The motion for a mistrial and withdrawal of a juror is overruled and exception noted.

Mr. Nelson: Your Honor, I have an affidavit dealing with matters of this type but I haven't had a chance to get it notarized this morning.

The Court: You mean concerning publications?

Mr. Nelson: Clippings. That is one of the last ones made that I picked up last night.

The Court: What I think you should do or rather a good plan for you to do would be to incorporate those in one written motion, if you want, and attach these clippings if you have them. We have ruled on them separately but if you want to put them into the record——

[fol. 2114] Mr. Nelson: They come too fast every day.

The Court: You do it in that fashion so that they will all be a matter of record.

(End of side bar.)

Dr. Herbert Aptheker, resumed the stand.

Cross-examination (continued):

The Court: Proceed with the cross-examination, Mr. Cercone.

Mr. Cercone:

Q. Now, you said in your direct examination that you did not know of a Communist who had advocated violence?

Mr. Nelson: Objection.
The Court: Objection overruled.

Mr. Cercone:

Q. And in fact if one would advocate violence he would be expelled from the Party. Is that right?
A. Yes, sir.
[fol. 2115] Q. And last Friday you admitted knowing 11 Communists who had been found guilty of advocating violence——

Mr. Nelson: That is objected to as not being a fact.
The Court: Guilty of conspiracy.

Mr. Cercone:

Q. Found guilty of conspiracy of advocating and teaching the overthrow of the Government by force and violence. Is that correct?
A. Yes.
Q. They have not been expelled from the Party?
A. No.
Q. They have not, is that right?
A. That is right.
Q. And the theory and the program of the Communist Party, according to what you have said here on the witness stand, is that the Communist Party intends to achieve its objective by peaceful methods, and in support of that theory you said that if anyone should advocate violence he would be expelled from the Party and yet the 11 top Communists were found guilty of conspiring of advocating and teaching the overthrow of the Government of the United States by force and violence and they have not been expelled yet; is that right?
[fol. 2116] A. That is correct.
Q. Now, when you said you did not know of a single Communist who advocated violence, it develops, as a matter of fact, that you did know all the time that there were Communists who not only advocated violence but were found guilty by a jury of conspiring to teach and advocate the overthrow of our Government by force and violence. Is that right?

A. No.

Q. You say you don't know?

Mr. Nelson: Will you elaborate on your answer?

Mr. Cercone: He said, "No."

A. That's right.

Mr. Cercone:

Q. So you don't believe in a verdict of a jury, is that right?

A. Where you have the question which you put to me, which is a long one, repeat it.

Q. You answered it, "No". Didn't you understand it? All right, I'll read it. When you said that you did not know of a single Communist who advocated violence, it develops, as a matter of fact, that you knew all the time that there were Communists who not only advocated [fol. 2117] violence but were found guilty by a jury of conspiring to teach and advocate the overthrow of our Government by force and violence, and you know of that.

Mr. Nelson: They were not found guilty of advocating force and violence and you know that.

The Court: We have been over that. They were found guilty of conspiring to teach and advocate the overthrow of our Government.

Mr. Cercone: That's right.

Mr. Nelson: Then why twist it around?

Mr. Cercone:

Q. They were found guilty of conspiring to teach and advocate the overthrow of the Government by force and violence and you knew that, didn't you?

Mr. Nelson: Under the war hysteria that has been around——

The Court: Don't interrupt, Mr. Nelson. The witness requested it and the question was repeated and he answered [fol. 2118] it so if the District Attorney isn't repeating it as asked originally, we will have the reporter do so.

The Court:

Q. Do you understand it?

A. Sir, he is not putting the question properly and until he does so it's very difficult for me to answer his question.

Mr. Cercone:

Q. I think it's very clear.

A. It's clear but improper.

Q. I'll let the Judge decide that.

A. I'm unable to answer it because it is improper.

The Court: Well, possibly I can ask the question then in a more simple form.

The Court:

Q. You do know of the trial and convictions of the men mentioned on Friday for the charges which we have been over and which we shall not repeat?

A. Well, sir, I requested that it be repeated because it's pertinent to the question.

[fol. 2119] The Court: Well, we will have it repeated as asked originally and to which you gave a negative answer.

(Question and answer read.)

Mr. Cercone:

Q. That is your answer?

A. Now, it's the middle section of your question which is improperly worded.

Q. I asked the question and I want the question answered.

The Court: If you want to explain why you can't answer, Doctor, explain what is improper about it and which prevents you from answering it.

A. The thing that is improper, in the middle of the question was inserted that I knew they were guilty of advocacy of violence. This is false. At the end of the question you assert that I knew they were guilty—found guilty by a jury of conspiring to teach and advocate the overthrow of the Government of the United States. These two things are

quite distinct and since you mixed the two, it's quite difficult to explain.

[fol. 2120] Mr. Cercone:

Q. You did know the jury found the top men of the Party guilty of conspiring to teach and advocate the overthrow of the Government of the United States by force and violence? You did know that?

A. Yes, I know.

Q. Yet these men were not expelled from the Party; that's what I'm trying to get at. Is that right?

A. That's correct.

Q. So that this Constitution of the Communist Party of America is nothing but a hoax; a gigantic fraud and conspiratorial fraud on the people of America?

A. Not at all.

Q. Is that right?

A. No, it's wrong and I can explain if you will allow me.

Q. I'm explaining——

A. No, you are not supposed to explain. I'm supposed to explain, that's why I'm on the stand.

The Court: You may explain on redirect examination at the insistence of the defendant.

A. But he is not right when he says he will explain it.

The Court: He has a right to question but he will not explain it.

[fol. 2121] Mr. Cercone:

Q. Yet the top 11 men are still the top 11 men of your Party; is that right?

A. Yes.

Q. Now, you have stated that you are a Marxist—and you have said that, "If you are not a Marxist, then you are nothing". Is that right?

A. Intellectually that is correct.

Q. What do you mean by intellectually?

A. I mean that I am a father, I am a husband, I am a teacher.

Q. You are a Marxist, is that right?

A. Intellectually that is correct.

Q. Now, Lenin in "State and Revolution" says this bout a Marxist: "A Marxist is one who extends the acceptance of class struggle to the acceptance of the dictatorship of the proletariat." Is that right?

A. Yes, he says that.

Q. So you believe in dictatorship, don't you?

A. No.

Q. You don't believe in dictatorship?

A. No.

Q. You repudiate the man you say you owe your very life to?

A. No. By the way, I didn't say "I owe my very life to".

Q. You said if you are not a Marxist you are nothing.

A. That is right.

[fol. 2122] Q. Marxist, according to Lenin, whom you also believe, says, "A Marxist is one who extends the acceptance of class struggle to the acceptance of the dictatorship of the proletariat." Is that right?

A. That is right.

Q. What is a dictator?

A. A dictator?

Q. Yes.

A. A dictator is a man who is in complete power in his state.

Q. That is right, absolute power. Now, let me explain to you or read to you, as a Marxist, you accepted the dictatorship of the proletariat. What is the dictatorship of the proletariat? This is what Lenin, one of your teachers, said about it. "To put it briefly, the dictatorship of the proletariat is domination of the proletariat over the bourgeoisie untrampled by law and based on violence and enjoying the sympathy and support of the toiling and exploited masses." Did Lenin say that?

A. Yes.

Q. In the "Dictatorship of the Proletariat"?

A. Yes.

Q. And you teach that book, don't you?

A. That is one of the basic classics of mine——

The Court: Let the witness please repeat or confirm or [fol. 2123] inject another question.

Mr. Cercone:

Q. Now, will you answer that question?

A. I said that is one of the classics of Marxist——.

Q. "The State and Revolution" is one of the very foundations of your Marxist-Leninist theory?

A. Yes, that is right.

Q. And the Communist "Manifesto", is that right?

A. Yes, and the "Manifesto" is a classic of Marxism.

Q. Do you repudiate this definition by Lenin?

A. No.

Q. All right. As a Marxist you believe in Leninism, don't you?

A. Yes, sir.

Q. So that "Leninism is Marxism of the era of imperialism and of the proletarian revolution. To be more exact, Leninism is the theory and the tactics of the proletarian revolution in general; the theory and tactics of the dictatorship of the proletariat in particular."

A. From what are you reading?

Q. "Foundations of Leninism."

A. That is pretty accurate.

Q. You teach that book in your school, don't you?

A. Personally at the moment, no, I don't.

Q. But you taught that in the Jefferson School?

A. It's used; a Marxist classic.

[fol. 2124] Q. Now, you said in direct examination that you did not know of any Communists in Allegheny County who ever advocated violence?

A. There is no Communist anywhere who advocate violence.

Q. That's what you say.

A. I say it under oath.

Q. Now, do you know Antoinette Nuss?

Mr. Nelson: Objection, your Honor.

The Court: Objection overruled.

The Court:

Q. The question is whether you know. Do you understand the question? Do you know Antoinette Nuss?

A. No, sir.

Mr. Cercone:

Q. Then you don't know all the Communists in Western Pennsylvania, do you?

A. Certainly not.

Q. So you made a general statement here when asked by the defendant if you knew of any Communists in Western Pennsylvania who advocated violence?

A. I certainly did.

Q. Now, you teach at this Jefferson School of Social Science?

[fol. 2125] A. Do I teach there?

Q. Yes.

A. Yes, sir.

Q. And you know, of course, that that school has been declared an adjunct of the Communist Party by Congress. You know that?

Mr. Nelson: Objection.

The Court: Objection sustained. What Congress has done or any committee of Congress we are not trying this case on their findings. We are trying what we find here and not trying it on a trial in New York or the findings of any other body but we are trying it on what this jury is going to find.

Mr. Cercone: May we have a side bar?

The Court: Come forward, gentlemen.

(At side bar.)

Mr. Cercone: Now, your Honor, if this man, if nothing, he has been qualified as an expert in Communism in every phase.

[fol. 2126] The Court: We'll grant that.

Mr. Cercone: He has taken the stand as being acquainted with every phase of the Communist Party, has qualified himself as an expert and I have a right to cross-examine an expert on the Communist Party like any other expert: that is simple as A, B, C. On that, I mean, after all

The Court: You can ask him whether he is an expert but I suppose you will disagree with him.

Mr. Cercone: He knows members of the Communist

Party who have been in the Party as long as he has. He told the jury here for two days what he knows.

Mr. Nelson: Well, are you going into those questions of theory? What do you want to do?

Mr. Cercone: In relation to this business with Congress, I have a little memorandum:

[fol. 2127] "The admissibility in evidence of a report of a Congressional Hearing:

"1. The admissibility of evidence in the Federal Court is governed generally by Rule 43 (a) of the Federal Rules of Civil Procedure which is as follows:"——

The Court: The Federal Rules of civil procedure, they are not governing on us here, they are rules for the Federal Courts. We have our own rules of civil procedure, criminal procedure, and we are not bound by the rules of procedure of the Federal Court.

Mr. Cercone: There are many statutes providing for the admissibility in evidence of various types of returns in reports (see Sections 1662 to 1672 of Wigmore). The only statutory reference to Congressional Committees which I have found is in June 25, 1948, Chapter 646, 62 Stat. 977, 28. U. S. C. A. 2507 as follows: "The Court of Claims may call upon any department or agency of the United States for any information or papers it deems necessary and may use all [fol. 2128] recorded and printed reports made by the Committee of the Senate or House of Representatives." It proposed a uniform act for the use of official reports as evidence of the National Conference of Commissioners of uniform state laws has not been adopted in Pennsylvania.

It is my conclusion that none of the matter contained in Vol. 5—that's the conclusion of the hearing.

We submit that it may be confronted——

The Court: Listen. All you would have to do would be to bring down the records of the convictions in New York and submit it in evidence here and the Communist Party would be established as a seditious organization and his participation in it would be the only issue here and I refuse to accept that and if I refuse to accept that as evidence here, I refuse to accept any findings of any bureau of the United States Government or any Committee of the United States Congress.

Mr. Cercone: We have a right to show statements of Communists before any Committee——

[fol. 2129] The Court: That only applies when he makes claim as an expert on the Communist Party.

Mr. Cercone: When a doctor takes the stand——

The Court: You have to ask him first if he is acquainted with those statements without reading them. You are not going to read into evidence those statements. You can ask him if he knows of any state-s made before——

Mr. Cercone: He could say no. Cross-examination doesn't end by mere negation of the witness. This is cross-examination.

The Court: If he says, no, you can't interrogate him on something which you didn't bring out in chief and which he doesn't know about.

Mr. Cercone: My understanding is, your Honor,—take, in a case where a doctor testifies. Naturally he doesn't bring [fol. 2130] out in chief what another doctor, who contradicts his testimony, says about it, yet he is confronted with that because he holds himself out as an expert.

The Court: This man is not held out as an expert. He is just held out, as Judge Musmanno, as one who is qualified to discuss the subject. Now, I will grant you that in medical science, where there are certain fundamental textbooks on a subject, you can ask this witness or that doctor whether or not he is familiar with the theory of Doctor so and so as expounded in a thesis of some sort and if the answer is, yes, and then you can ask him, well, Doctor so and so disagrees with you in that respect and he may explain his position but if he says, "No, I'm not acquainted with Doctor so and so's theory on it"——

Mr. Cercone: He can't be confronted with it?

The Court: You can ask him in general about his disagreements but you can't get into the theory and ideas [fol. 2131] of someone else about which this man or any other qualified so-called expert is unfamiliar with. If you can show me any clause to the contrary, I will be glad to examine it and change my ruling but that is my impression here without——

Mr. Cercone: Well, part of our case——

The Court: What you want to do is confront this man with

something said elsewhere. If you want to bring that person here to refute in rebuttal——

Mr. Cercone: But I still think I have a chance to ask on cross-examination the opinions of the Communist members, leading Communist members, what they have——

The Court: If he is familiar with them—Ask him if he knows the opinions of so and so which has been expressed here or in books if you have a book here submit it to him.

[fol. 2132] Mr. Cercone: We have books.

The Court: Ask him if he is familiar with the statement of Mr. Foster or anybody else that you want, as expressed in the books, and ask him whether it is contrary to what he testified as to the theory of the Communist Party but the only thing I am preventing you from doing is getting in statements from people made on the outside or to other committees or any conclusions drawn by those other witnesses.

Mr. Cercone: Only as an expert on the Party, that is all.

The Court: Well, certainly, if he is an expert of the Party, if he is familiar with them, the statements made by them, but if he is not familiar with them, you ask them but you will have to produce proof that they made the statements.

Mr. Cercone: We have the proof.

The Court: You are not going to prove it by something [fol. 2133] you bring in here unauthenticated. You bring in the reporter from the testimony that was taken before some committee in Washington as we have to bring in a reporter to establish a fact that someone may have said something or bring in the person that said it. That is the only way you have of getting around it but you are not going to just bring in a record of a hearing unauthenticated by someone; you have got to prove that someone said that.

Mr. Cercone: I agree with your Honor, but this man here is talking for the the entire Communist Party. He is just going into——

The Court: He is not talking for the entire Communist Party, he is talking for the defendant. He is not even an officer of the Communist Party.

Mr. Nelson: I didn't know the Communist Party was on trial.

The Court: Well, it is on trial to this extent. If you [fol. 2134] are a member of a seditious organization, and that is one of the counts of the indictment, but membership alone, as pointed out to the jury, is not sufficient.

What you are trying to do is establish the principles of the Party on cross-examination by this witness and if he denies it, knowledge of the things that you are trying to bring out you will have to prove it some other way.

Mr. Cercone: Well, he stated on the stand that the Communist Party does not stand for violence.

Mr. Nelson: That's right, he told the truth.

Mr. Cercone: Wait awhile.

The Court: And I let you bring out that certain members were convicted but I am not going to let you bring out that certain members——

Mr. Nelson: Advocating force and violence.

[fol. 2135] There was no overt act committed, as cited against them.

The Court: The overt act was organizing an organization and establishing an organization that would have those purposes.

I am not going to let you bring in things and confront this man with things he doesn't know about or any conclusions or decisions drawn by other bodies of the courts. As I said, if I were convinced that the decisions in New York, the verdicts against the eleven was judicative of this matter and hadn't any right to pry into it further, then just offer the record and the only issue would be whether the defendant here was actively supporting the policies of the Party. So, I am not going to permit you to do that because I am not convinced the law is thus, so you have your witnesses—oh, you had White, Patterson, Cvetic—they all testified what the policies were. The policies were one thing, the action something else. You can interrogate this man on that basis all you want, to the extent of his knowledge, but I am not going to let you go beyond that.

[fol. 2136] (End of side bar.)

Mr. Cercone:

Q. Now, at this Jefferson School of Social Science, this school teaches Marxism, is that right?

A. Yes.

Q. And, of course, Marxism, fundamentally, is Communism in the broad sense of the word?

A. No.

Q. You say it isn't?

A. That's what I said.

Q. Isn't the Communist state in Russia, let's say, based on Marxism-Leninism?

A. Your first characterization of the Communist state in Russia is inaccurate.

Q. As a Marxist you also teach Communism; you admit being a Communist?

A. I affirm I am a member of the Communist Party.

Q. And in this school, Jefferson School of Social Science, you don't have any course in that school on Thomas Jefferson? I don't mean the name, you don't have a course called "Thomas Jefferson" or something like that?

A. Yes, we have something like that.

[fol. 2137] Q. You don't have any course on the life of Thomas Jefferson, that is, the complete study?

A. Just confined to Mr. Jefferson, you mean?

Q. Yes.

A. No.

Q. But you do have a great deal of material on Lenin and Stalin and Marx and so forth; is that right?

A. And Jefferson.

Q. And Jefferson?

A. Yes, sir.

Q. All right. You show me now just where you have anything on Jefferson.

A. I don't have to do that, I'll tell you.

Q. I want you to find it in there.

A. What is the year of this, do you know, 1950?

The Court:

Q. Is that what has been identified? Is that an exhibit?

A. No, sir. Just what he handed me, a pamphlet.

The Court: Let's mark this as an exhibit so we will know what you are talking about.

A. Do you want this, Mr. Cercone?

[fol. 2138] Mr. Cercone:

Q. I show you Commonwealth's Exhibit No. 171 and I want you to show me where you have anything——

The Court: Identify it first.

Q. It's a pamphlet enumerating the courses taught in the Jefferson School of Social Science.

The Court:

Q. Do you affirm that, Doctor?
A. Yes, sir, for the winter of 1950.

Mr. Cercone:

Q. I ask you to show me where you have a course specifically and particularly on Thomas Jefferson.
A. I already replied there is no such course.
Q. That's right.
A. I also replied that there was a great deal on Thomas Jefferson.
Q. But with a Marxist application and aspect, is that right?
A. Well, it's taught—well, it's taught by me. For example, I teach it from a philosophical point of view; as a Marxist.
Q. Isn't it a fact that your school glorifies the Communist leaders, such as Stalin, the Dictator of Russia, Mao-Tse-Tung, the Dictator of China and head of the Communist forces fighting the United States forces in [fol. 2139] Korea?

Mr. Nelson: Objection.

Mr. Cercone:

Q. —and William Z. Foster, the American Communist leader?
A. There are so many inaccuracies in the question it's impossible to answer it.
Q. I said, you glorified them?
A. No.

Mr. Nelson: Let him explain.

Mr. Cercone:

Q. Now, I show you Commonwealth's Exhibit No. 62, I think it is, your Honor, one of the Daily Workers in the large bundle, and ask you to look at that. Is this the "Daily Worker"?

A. Yes.

Q. And that is an official organ of the Communist Party of America?

A. No.

Q. You say it isn't?

A. No.

Q. What is the Daily Worker?

A. The Daily Worker is a newspaper published daily by the Freedom of the Press, Inc.

[fol. 2140] Q. And you say the Daily Worker is not the official organ of the Communist Party of America?

A. That's right. You mean the Communist Party of the United States.

Q. The Communist Party of the United States. Now, I show you Page 5 of the Daily Worker which shows a picture of Joe Stalin, Mao-Tse-Tung and William Z. Foster at the head of which it says: "Armed with theory, we are invincible." Beneath the picture of William Z. Foster it says: "—the youth in the labor and Communist movement should most resolutely find the time for lots of solid reading."

Mao-Tse-Tung: "We study Marxism-Leninism not because of its good looks, nor because there is any magic in it, as if it were a kind of charm to cast out devils—it has neither good looks nor magic—it is only very useful."

And Stalin says: "—the higher the political level and Marxist-Leninist knowledge of the workers, the better and more fruiful will be the work itself."

Now, you say that is not glorifying Joseph Stalin?

A. I don't think there is any glorification, do you?

Q. Absolutely.

A. Why?

Q. Why, you're showing his picture in the Daily Worker.

The Court: Let's not include this argument between [fol. 2141] counsel and the witness. The doctor's opinion is

that it does not glorify but the most important thing is what you haven't established, Mr. Cercone, is what the witness has to do with the Daily Worker. He said it is not an official organ of the Communist Party.

Mr. Cercone: We will contradict that in rebuttal, your Honor. That is just a question I asked him.

Mr. Cercone:

Q. Now, so that this school, in view of the fact that it teaches Marxism and does not teach Jeffersonism, it could be called the Marxism School instead of the Jeffersonian School?

A. Who's calling it the "Jeffersonian School"?

Q. The Jefferson School for Social Science.

A. That is the name of the school.

Q. It could be just as well called the Marxist School for Social Science?

A. I don't understand your question. Are you offering to re-name the school?

Q. Could it be called that just as well?

A. That's ridiculous.

[fol. 2142] Mr. Nelson: I object, your Honor.

The Court: We will sustain the objection to the question.

By Mr. Cercone:

Q. Now, you say that the Communist Party of the United States is not connected with the Communist Party in Russia, is that correct?

A. That is correct.

Q. Is the Communist Party of the Soviet Union a section of the Communist International?

A. No.

Mr. Nelson: Objection.

The Court: Objection overruled. He has been stating facts as one qualified in the field of Communist activity and I think he can answer that. He answered negatively on that.

Mr. Nelson: I would like to be heard on that, your Honor. It's a well-known fact that the Communist International

was dissolved as far back as '41 and if there were any con-
[fol. 2143] nection at any time——

The Court: He said, no, that it wasn't. I don't know that if needs any further argument.

Mr. Cercone:

Q. Now, in 1941 the Communist Party of the United States belonged to the Communist International, didn't it?

A. I believe it did.

Q. And did the Communist Party of the Soviet Union belong to the Communist International?

A. At that time?

Q. At that time?

A. Yes, sir.

Q. Did the Communist Party of China belong to the Communist International?

A. I believe it did at that time.

Q. And did the Communist Party of other nations belong to the Communist International?

A. Yes.

Q. And now you say that the Communist Party of the United States is not a part of the Communist International?

A. That is right.

Q. Do you know Benjamin Gitlow?

A. No.

[fol. 2144] Q. You don't know Benjamin Gitlow?

A. No.

Q. Did you know that he is the General Secretary of the Communist Party of the United States?

Mr. Nelson: The man answered the question——

The Court: Well, I suppose that is a personal significance. Was he personally acquainted with him?

Mr. Nelson: He is the same type as Crouch, who became a renegade and sold out for money and you want to bring him here.

The Court: Let the witness explain.

Mr. Cercone:

Q. Do you know Benjamin Gitlow, the General Secretary of the Communist Party of the United States?

A. I'm not even certain of that.

Q. Now, Mr. Witness, you said a Marxist and Marxism is sort of an international movement, is that right?

A. No.

Q. You say Marxism is not an international movement?

A. No.

[fol. 2145] Q. You say that the Communist Pary in Russia does not base their Communistic state on Marxism?

A. They do.

Q. Does the Communist Party in China base its program on Marxism?

A. Yes.

Q. Does the Communist Party of Albania base its program on Marxism?

A. Yes.

Q. The same in Poland?

A. Yes.

Q. The same in Czecho-Slovakia?

A. Yes.

Q. And the same in Bulgaria?

A. Yes.

Q. And you say that that isn't an international movement?

A. That's right. Marxism is not a movement.

Q. But it's adopted by the International, the countries throughout the world, is that right?

A. Marxism is.

Q. Now, you know that William Z. Foster, the National Chairman of your Party says: "We Marxians are internationalists." Do you know that?

A. Do you have the direct quote? I would rather have what Foster says from him.

Q. All right. I'm asking you that and I could show——

A. I would rather see it, Mr. Cercone, if you don't mind.

[fol. 2146] Q. All right, I will show it to you.

A. I just don't know the exact quote so I can't answer you intelligently.

Q. I show you Commonwealth's Exhibit No. 4—I think it is or 19—and show you Page 167 and refer to that line (indicating) and does Mr. Foster say that, "We are Marxian internationalists"?

A. Yes, sir.

Mr. Nelson: Will you explain that?

Mr. Cercone:

Q. Just a minute. I show you——

A. Do you want the sentence that follows that, Mr. Cercone?

Q. I want to follow this up and then get to that.

A. I see.

Q. I show you Commonwealth's Exhibit No. 50, which was found in the Communist Headquarters, and read to you: Page 54——

The Court: You mean identified as having been found.

Mr. Cercone: Yes, your Honor.

Q. "An internationalist is he, says Comrade Stalin, who unreservedly, without any hesitation, and unconditionally, [fol. 2147] is ready to defend the U. S. S. R. because the U. S. S. R. constitutes the base of the world revolutionary movement, and to defend, to advance this revolutionary movement is impossible without defending the U. S. S. R. He who thinks in terms of defending the world revolutionary movement without the U. S. S. R. and against it, goes against revolution and inevitably finds his way into the camp of the enemies of revolution."

The Court: Are you asking this man's opinion of that? Are you putting a question to the witness concerning that?

Mr. Cercone: That is Stalin's interpretation of an internationalist.

Mr. Nelson: Well, is that a question?

Mr. Cercone: I am going to ask him a question.

A. By the way, you were not reading from Stalin. I guess you know that?

Mr. Cercone:

Q. I know. But I'm reading from "Communist Leader."

A. I'm just making the point because you said "Stalin". [fol. 2148] Q. It states here: "An internationalist is he, says Comrade Stalin"——

A. But it's not quoting Stalin.

Q. Well it's written—who is it written by?

A. You tell me who it's written by.

Q. Well, it's such a strange name—Gh. Gheorghiu-Dej. Who is he?

A. What does it say?

Q. Communist Party Leader of the Party of Yugoslavia.

A. But not Stalin.

Q. He says, "An internationalist is he, says Comrade Stalin"—you don't agree with that?

A. Do I agree with that formulation?

Q. Yes.

Mr. Nelson: Give your opinion of what an internationalist is.

The Court: Does that correctly reflect the views of the Communist Party of the U. S. A.?

The Court:

Q. Does that statement reflect the views of the Communist Party of the U. S. A.?

A. I would say that it is in accord, more or less, basically, [fol. 2149] with the position of the Communist Party of the U. S. A. and that it contains in its parts of the concept of internationalism, which is part of Marxism-Leninism.

Mr. Cercone:

Q. Now, you say that the Communist Party of the United States is no longer a part of the Communist International or part of the Communist Party of Russia?

A. It never was.

Q. Now, I show you Commonwealth's Exhibit No. 67, being Eugene Dennis' "Ideas They Cannot Jail" and of course Eugene Dennis is the General Secretary of the Party, is he?

A. That is right.

Q. I show you Page 187 of that exhibit and just direct your attention to this paragraph (indicating). Read it and then I am going to read it out loud.

A. You wouldn't read the paragraph after it too, would you?

Q. "Fourth, it is incumbent on us to raise to new heights the struggle for proletarian internationalism, the touchstone of which, for Communists and non-Communists, is the attitude to the Soviet Union, to the land of Socialism. We know, and we must help other workers and progressives to realize, that the Soviet Union is not just another country.

"It is the land of socialism,——"

Is that right?

[fol. 2150] A. You didn't finish it.

Q. Is that right?

A. You mean, did you read that correctly?

Q. I read every word of that paragraph.

A. You put a question to me, "Is that right?" Do you mean, did you read that correctly?

Q. I said, yes, I did. I read every word of it.

A. Fine, that is splendid.

Mr. Nelson: You stopped at a comma and not a period.

The Court: There is no question about the correctness of the reading of it but there was no question put to the witness, Mr. Cercone.

Mr. Cercone: But I asked him if I read it right.

The Court: No, you didn't. You said, "Is that right?" What did you mean?

A. After you finished reading a part you said, "Is that right?" I am trying to indicate that I don't understand your question.

[fol. 2151] Mr. Cercone:

Q. That is right, the part that I read?

The Court: You mean, did you read it right?

Mr. Cercone:

Q. Do you understand the paragraph?

A. Yes, I understand it.

Q. And you agree to that?

A. I just want to add you didn't read the entire paragraph.

Q. You say not the entire paragraph on that page?

A. I am just depending on my memory.

Q. We will get to the other part.

A. What is the last page you read?

Q. On this page (indicating).

A. But that is not a paragraph.

Q. Let me read it again. "Fourth, it is incumbent on us to raise to new heights the struggle for proletarian internationalism, the touchstone of which, for Communists and non-Communists, is the attitude to the Soviet Union, to the land of socialism. We know, and we must help other workers and progressives to realize, that the Soviet Union is not just another country." Do you agree with that sentence?

A. Do I agree with that? Yes, I agree with that.

Q. Now, of course, you have another paragraph: "It is [fol. 2152] the land of socialism——"

A. Pardon me, it is the same paragraph.

Q. On the next page. "It is the land of socialism, the land of the workers, of the farmers, of all the peoples and nationalities that make up the U.S.S.R. It is the land where the workers rule and live today free from exploitation, from mass unemployment, free from the insecurities and the oppression of capitalism. It is the land of freedom and culture, the land of true democracy, the democracy of socialism." You say that is a true statement?

A. I believe it is.

Q. What about the seven million people in the slave camps? You still say they are free?

Mr. Nelson: I object. That's a lie coming from the prosecution.

The Court: Objection sustained.

Mr. Cercone:

Q. You say there are no people in slave camps in Russia?

A. Am I to answer that question?

Mr. Nelson: The Soviet Union is not being tried by the prosecution. I think the Soviet Union can take care of [fol. 2153] itself.

The Court: The objection is sustained. You need not answer it.

Mr. Cercone:

Q. Now, I show you Commonwealth's Exhibit No. 54, which was found in the headquarters of the Communist Party of Western Pennsylvania, under the control of Steve Nelson, and show you Page 27.

The Court: What exhibit is that, Mr. Cercone?

Mr. Cercone: Exhibit No. 54, page 27.

The Court: What do you want to do, ask the witness whether he agrees with the statements in the various books and whether they reflect the attitude of the Communist Party of the United States?

Mr. Cercone: That is right.

Mr. Cercone:

Q. That article was written by Gus Hall——

[fol. 2154] Mr. Nelson: Objection, your Honor. I think the prosecution is just dragging in things that don't have to be raised at this time.

The Court: Objection overruled.

Mr. Cercone:

Q. Who is Gus Hall?

A. Gus Hall is a national leader of the Communist Party of the U.S.A.

Q. Now, listen to what he says: "We must avoid and do everything in our power to make sure that we will not be put into a situation where Communists vote for resolutions that condemn the Soviet Union." Do you agree with that?

A. Certainly. Read the title of that article.

Q. Never mind. I'll read the title.

The Court: What is the exhibit number?

Mr. Cercone:

Q. "Through United Struggle, Victory of Peace." And that's what this whole mass of literature is here, found in the Communist Party of Western Pennsylvania: the glorification of Russia?

A. Certainly not.

[f . 2155] Mr. Nelson: I object.

A. What is the characterization you used, that "iness". Are you ready to burn that?

Mr. Cercone:

Q. Is there anything in this mass of literature that criticizes in any way the Soviet Union?

A. Is there anything?

Q. Can you point out anything?

A. How can I possibly answer that question when I have no idea what you have in this mass?

Q. All right, you know the "Life of Joseph Stalin"?

A. I know the volume. If you want to have me sensibly answer the question, if you will show me everything that is there and if I have read everything that is there, I will be happy to answer your questions.

The Court: We will not permit you to indulge or the District Attorney to indulge in the asking of such a general catch-all generous question.

Mr. Cercone:

Q. But you are familiar with that book?

[fol. 2156] A. Yes.

Q. And you are familiar with this book, "Joseph Stalin, a Political Biography"?

A. Yes, sir.

Q. And you have seen and are familiar with Eugene Dennis' "Ideas They Cannot Jail"?

A. Yes, sir.

Q. And you are familiar with the little handbill "Hands Off Korea and Formosa"?

A. Yes.

Q. And you are familiar with the book by George Marian entitled "The Communist Trial"?

A. Yes.

Q. And you are familiar, of course, with all the books that we have indicated to you, "Foundations of Leninism" by Joseph Stalin?

A. Yes.

Q. "Problems of Leninism" by Joseph Stalin?

A. Yes. Just a minute. Just "Leninism" by Joseph Stalin.

Q. This book says, "Problems of Leninism".

A. I may not know that—oh, yes, I'm familiar with that.

Q. "The Dictatorship of the Proletariat" by Lenin?

A. That is actually several authors; yes, I am familiar with it.

Q. "The Theory of the Proletariat and Revolution" by Lenin. You know that book?

A. Yes.

[fol. 2157] Q. "State and Revolution" by Lenin, you know that?

A. Yes.

Q. "The Twilight of World Capitalism" by William Z. Foster, the National Chairman of your Party. Do you know that?

A. Yes, sir.

Q. There is an inscription in that book: "To my Great-Grandson Joseph Manley Kolbo who will live in a Communist United States". You know that book?

A. I do.

Q. And you know the "Selected Works of Lenin", Vol. 9, don't you?

A. Yes.

Q. Do you know the "Selected Works of Lenin", Vol. 8?

A. Yes.

Q. Do you know "United Front Against Fascism" by George Dimitroff? Who was he?

A. Dimitroff?

Q. Yes.

A. He is the Premier of Bulgaria.

Q. What is he in the Communist International?

A. What he had been?

Q. Yes, before he died.

A. Before he died.

Q. What was he?

A. Dimitroff was the man who defied Hitler at the Reichstag trial.

Q. And you have read the Daily Worker, haven't you?

[fol. 2158] A. This is certainly a series of irrelevant

questions, if I may say so, moving from Dimitroff to the Daily Worker.

The Court: This will form a question that will be put to you, about all these volumes, and I don't consider that irrelevant.

Mr. Cercone:

Q. Did you read the Daily Worker?

A. What issue?

Q. Say all the issues from since you have been a party member?

A. No, I haven't.

Q. How long have you been reading the Daily Worker?

A. Oh, I'd say about 16 years; something like that.

Q. Well, 16 years, that covers practically the time that you have been a member of the Communist Party?

A. I think it covers more.

Q. And you are familiar with Lenin's "Imperialism", the high state of capitalism?

A. Yes.

Q. You are familiar with "Marxism and Revisionism" by Joseph Stalin and V. I. Lenin, aren't you?

A. Let me see that. Yes.

Q. And you are familiar with the "History of the Communist Party of the Soviet Union"?

A. Yes.

[fol. 2159] Q. That book is taught in the Jefferson School for Social Science, is it not? Is it not one of the books used at the Jefferson School?

A. It is one of the books used at the Jefferson School.

Q. And is what is taught in this book still applicable to the program of the Communist Party of the U. S. A.?

A. The way you put that question it cannot be answered.

Q. Do you apply it in any way to the program of the Communist Party of the United States?

A. It is studied here as a very valuable history book.

Q. A valuable history book?

A. Yes, sir.

Q. And you have a sequel to it, bringing it up to 1949 in this school, do you not? Do you known if the Jefferson School for Social Science has a sequel of the book, bringing

it up to date, the "History of the Communist Party of the Soviet Union", from where it leaves off up to 1949?

A. A sequel? Another volume, you mean?

Q. I don't know whether it's another volume but there is a little pamphlet in which you say you have a sequel bringing this——

The Court: Supplemental?

Mr. Cercone: The word is "sequel".

A. I don't know of any sequel to that. I don't know what you are talking about.

[fol. 2160] Mr. Nelson: Well, the man answered the question that he doesn't know.

The Court: He is going to direct his attention to the list of studies in the Jefferson School, I presume.

Mr. Nelson: It's a list of books, it's not studies.

The Court: A list of books.

A. Is that all part of the other question?

Mr. Cercone:

Q. This is it there (indicating). Does that mean a sequel? You explain that to me. I just saw it in there.

A. The sequel to this course, that's what it's saying.

Q. Of the "History of the Communist Party of the Soviet Union"?

A. In other words, this book ends in 1939 and the course does not end in 1939. It doesn't mean that there was a book published.

Q. But a sequel to the course?

A. A sequel to the course of "History of the Communist Party of the Soviet Union"?

[fol. 2161] Mr. Nelson: I think he understands your different questions and you got an answer; he told you, no.

Mr. Cercone: Yes, I got an answer. Just wait a minute.

The Court: The objection to the question is overruled.

Mr. Cercone:

Q. Are you teaching "History of the Communist Party of the Soviet Union" under the actual "History of the

Communist Party of the Soviet Union" from 1917 to 1949?

A. I am not teaching it.

Q. The school does?

A. There is such a course.

Q. Have you read Gus Hall's Report of July 13, 1950, his Report to the National Committee Conference?

A. I'd have to see it, sir. I don't actually remember this item.

Q. But you did learn from your studies and activities in the Party that he did make such a report?

A. Well, I have no reason to doubt this item, I mean the authenticity of this item as I see it, but I can't claim that [fol. 2162] I am familiar with it as such.

Q. Now, are you familiar with the magazine "New Times"?

A. Yes, I am.

Q. How long have you been reading the "New Times"?

A. The answer would have to be approximated.

Q. Yes, approximately.

A. It's probably a couple of years or several months, I'm not positive.

Q. But certainly since 1950?

A. I believe so.

Q. Have you been reading the magazine "People's China"?

A. Only occasionally. May I see that? Yes, I seen that once in a while.

Q. And have you ever read from it?

A. Occasionally I have.

Q. Are you familiar with the book "The Soviet Spirit" by Harry F. Ward?

A. You mean——

Q. Have you read that book?

A. Let me see that—if it's the one I have in mind. I must say that I never actually read it but I am familiar with the works of Dr. Ward, a distinguished theologian.

Q. Are you familiar with that magazine "The Soviet Spirit"? Have you ever seen this?

[fol. 2163] A. I believe I have seen some issues. I don't know whether I seen this one.

Q. But you are familiar with that magazine, aren't you?

A. I know of its existence—I mean, I haven't read it in the regular way.

Q. And have you read the magazine "Political Affairs"?

A. I can't hear you.

Q. Have you read the magazine "Polifical Affairs"?

A. Yes, sir.

Q. You are familiar with that magazine?

A. Yes, sir.

Q. Have you read the pamphlet or booklet called "Working Class Unity for Peace"—this one?

A. I have read parts of it: I haven't studied that with great care.

Q. Have you read this little book or pamphlet called "Cold War in the Classroom"?

A. Yes.

Q. And, of course, you are familiar with "Masses and Mainstreams" since you are what? Some publisher or co-editor?

A. I am associate editor. Yes, I am familiar with that magazine.

Q. And are you familiar with the mimeographed material put out by the Communist Party of the United States from time to time? That is, they put out this material such as "Outline Guide for Speakers"—

[fol. 2164] Mr. Nelson: Well, your Honor, I believe that you can't do justice to this question by taking a ton of paper and taking it up and saying, "You are familiar with this." Each item ought to be put in separately and if the witness knows, he will answer. I believe that's the proper way; you can't do this stuff wholesale.

Mr. Cercone:

Q. Are you familiar with this?

Mr. Nelson: I don't know what it is, neither does the Court Reporter know, nor the Judge know.

Mr. Cercone:

Q. "Outline Guide for Speakers for Material on the Korean Situation".

A. I don't believe I am actually familiar with that, no.

Q. Are you familiar with this mimeographed material "Heroic Struggles of the People of South Korea for Unity and Independence of Their Country"?

A. I'm afraid I'm not.

Q. And all the books which you have identified as being familiar with or having read, can you point out anywhere where they have criticized the Soviet Union?

[fol. 2165] A. Where they have criticized the Soviet Union?

Q. Yes.

A. Well, you know that is a tremendous question to answer in terms of dozens of volumes that you have shown me, most of which or many of which don't deal with the Soviet Union; some of which were written long before the Soviet Union came into being.

The Court: I think the doctor may elaborate why it's difficult to answer, and if he can answer, do so, if you can explain why, doctor.

A. Well, I was saying that you showed me—I don't know how many books and——

Mr. Cerrone:

Q. Yes. Well, we just did that in order to save a little time. I could have taken each one individually and asked the same question for each pamphlet or book.

A. Well, I am answering your question. That would have been a little helpful in knowing precisely what your question was about, but since you did it this way I will answer it this way.

I didn't count how many books you showed me and I don't memorize the books that you showed me although those I testified that I was familiar with, I am familiar with. Some of the books you showed me do not concern [fol. 2166] themselves with the Soviet Union; some do, in whole, some do in part; some were written before the Soviet Union came into being. Some may have self-critical material dealing with aspects of the Soviet Union by some of the leaders because this is very common. So I daresay that in several of these volumes you would find that type of critical material.

One of the sole books that I remember that you showed me which specifically dealt with the Soviet Union was Dr. Ward's "The Soviet Spirit". Whether Dr. Ward had anything critical to say of the Soviet Union or not——

Q. Well, if you read it you would know.

A. First, I think I testified that I hadn't read it thoroughly; secondly, the book is published several years ago and if you think that I remember exactly the contents of the 250-page——

Q. I just asked you a general question.

The Court: He is answering it.

A. I am answering it as best I can. It's my impression that there my be some critical material in Dr. Ward's book. Now, if you would like me to look at it and try and read it over, read it after the recess, I will come back in and make a report.

The Court: We will take a recess at this time and you can examine it if you wish.

[fol. 2167] (Recess.)

(After recess.)

Dr. Herbert Aptheker resumed the stand.

Cross-examination. (Continued.)

Mr. Cercone:

Q. Were you able to look at "The Spirit of the Soviet Union"?

A. I glanced at it, yes, sir.

Q. Well, my question was whether or not there is anything in this literature here that criticizes the Soviet Union: that is, not a constructive criticism, but a criticism which holds it out to ridicule and contempt?

Mr. Nelson: Objection.

The Court: Objection overruled.

A. I don't want to repeat the original answer I gave. Appending this to your question, the answer to it is no.

Mr. Cercone:

Q. Now, you are bound by the findings of the National Board of the Communist Party of the United States, aren't [fol. 2168] you, as a member of the Party?

A. Bound by the findings?

Mr. Nelson: Objection. I didn't know the Communist Party was going to be tried here again.

The Court: Well, the Constitution is involved. I suppose what you have reference to——

Mr. Nelson: Let's put it specifically.

Mr. Cercone: The National Board of the Communist Party of the United States.

The Court: What do you find by the "findings"?

Mr. Cercone:

Q. It sets the program for the Party of the United States?

A. Not the Board.

Q. Who does?

A. The whole Party does, through the National Conventions.

Q. Then the whole members are bound by their decisions?

A. They remain members if they agree with the program, if they disagree, they leave the Party.

[fol. 2169] Q. Now, Mr. William Z. Foster, of course, is the National Chairman of your Party?

A. That is right.

Q. And you stated here that the Communist Party intends to achieve its objectives by an election, is that right?

A. Once again that question is phrased, you will pardon me, for saying so, in so inadequate a manner it's impossible to give clarity to the jury in replying to it.

Q. I want you to answer that question. You said the Communist Party intends to achieve its objective by an election.

The Court: First of all, did you say that?

Mr. Cercone:

Q. Did you say that?
A. I doubt that I put it that way.

Mr. Nelson: How did you put it?

Mr. Cercone:

Q. Don't you mean that the Communist Party of the United States means to achieve its objective by means of an election?
A. I mean that the Communist Party of the United States——
Q. Can you answer that question?

[fol. 2170] The Court: You asked him what he means and he said, "I mean——" he is explaining what he means.

A. I mean that the Communist Party of U.S.A. hopes to achieve its immediate program through peaceful persuasion, argument, getting the majority of the people——

Mr. Cercone:

Q. All right, go ahead.
A. Your continuing smirking over there annoys me.

The Court: There shouldn't be an imposition on the part of counsel——

A. It's very annoying to say the least to have a man smirking——

Mr. Cercone:

Q. I don't have to look at you, I can look out here.

The Court: Explain to the jury.

A. I said and I will say again that the Communist Party seeks to achieve its objectives through mass approval of what it wants through persuasion, through election activity, [fol. 2171] through mass activity; this is the way it wants to achieve its program, yes, sir.

Mr. Cercone:

Q. You say, yes?
A. Yes, sir.

Q. And William Z. Foster is the National Chairman of your Party, is that right?

A. That is right.

Q. And you agree with what he thinks on that matter?

A. Well, you tell me what it is.

Q. Here is what it says: "No Communist, no matter how many votes he secures in a national election"——

Mr. Nelson: Just a minute. I want to know what you are reading from, what is the document?

Mr. Cercone: This is Foster's statement——

Mr. Nelson: What's it from? What is it?

Mr. Cercone: The 1946 hearing before the Committee on Un-American Activities.

[fol. 2172] Mr. Nelson: Objection, your Honor. That matter——

Mr. Cercone: That has been raised before a committee——

Mr. Nelson: Before a committee where you cannot cross-examine anyone, where you cannot have proper defense and, therefore, I don't know what this is and I don't want this man to bring it in here in this manner.

The Court: Show it to the witness and see if he is familiar with the statement and if he is, you may discuss it with him, if not, you may not.

Mr. Cercone:

Q. Here is the statement he made. You are familiar with that?

A. I am not familiar with that book at all.

Q. Not with the book, with the statement.

Mr. Nelson: Well, he answered you.

The Court: Well, there might be a difference. He may have made the statement elsewhere.

[fol. 2173] The Court:

Q. Are you familiar with that statement referred to in the book?

A. No, I am not familiar with it.

Mr. Cercone:

Q. You say you are not familiar with this statement in which Foster says——

The Court: We are not going to hear what Foster said. You are not going to confront this witness with anything he does not know about.

Mr. Cercone: Your Honor, he says he does know but——

Mr. Nelson: Are you going to testify for him?

The Court: You will have to prove it. He does say he is not familiar and you are not going to re-establish that he is familiar with it.

Mr. Cercone: I have a right, your Honor, to confront [fol. 2174] him with the statement and have him state whether or not he is familiar——

The Court: Not somebody else's. You can confront him with his own statement but not with a statement made by somebody else with which he is not familiar.

Mr. Cercone: The only statement, and which was made by the National Chairman of the Party——

The Court: All right. He said he is not familiar with it.

Mr. Cercone:

Q. Now, you are not familiar with the statement of the National Chairman made in 1946?

A. First of all, sir, as you will see, if you will look at what you showed, he didn't make that statement in 1946.

Q. This is it.

A. I know, and I never saw that statement until the moment you showed it to me and I didn't even have time to finish it but you know as well as I do it states of that time.

Q. I will show you, but it was brought up in 1946——

[fol. 2175] A. Well, he said that in 1930.

Q. All right, that is understood that it was explained in 1930 and again in 1946 and I want to read the entire statement and see if you are not——

A. I don't know it. I don't know that statement.

The Court: Well, it will do no harm to have it read, the whole thing in case the reading of the whole passage changes his answer. If it doesn't——

A. No, sir, and it was the same as I was presented with on Friday.

The Court: Well, if you are not familiar with it, that is the answer, and we won't permit it to be read.

A. No. This is identical with what you brought in in another form on Friday.

Mr. Cercone:

Q. That's right, but in a different year. That was in 1930 and this is in 1946.

A. But it is still the same as the 1930.

Q. Now, you say that the Communist Party does not intend to achieve its objectives with violence, is that right?

[fol. 2176] A. That is right.

Q. And, of course, you are familiar with "State and Revolution" by Lenin?

A. That is right.

Q. And I am going to read page—read from here (indicating).

A. What do you want me to read?

Q. I want you to read—I direct your attention to the last sentence on Page 19 and the rest of the paragraph on Page 20. I just want to direct your attention to that.

A. All right.

Q. Now, this book is used in Party classes?

A. That is one of the Marxist classics.

Q. But this is one used in Party classes?

A. This is one that is used; there are thousands of books used.

Q. I am going to read, as I have indicated, and direct your attention to this part of the book: "We have already said above——".

Mr. Nelson: What page?

Mr. Cercone: Page 19, the last sentence on Page 19.

The Court: What is the exhibit number again?

Mr. Cercone: It's Exhibit 20, your Honor.

[fol. 2177] Mr. Cercone:

Q. "We have already said above and shall show more fully later that the teaching of Marx and Engels regarding

the inevitability of a violent revolution refers to the bourgeois state. It cannot be replaced by the proletarian state (the dictatorship of the proletariat) through 'withering away,' but, as a general rule, only through a violent revolution. The panegyric sung in its honour by Engels and fully corresponding to the repeated declarations of Marx (remember the concluding passages of the Poverty of Philosophy and the Communist Manifesto, with its proud and open declaration of the inevitability of a violent revolution; remember Marx's Critique of the Gotha Programme of 1875 in which, almost thirty years later, he mercilessly castigates the opportunist character of that programme)—this praise is by no means a mere 'impulse', a mere declamation, or a polemical sally. The necessity of systemically fostering among the masses this and just this point of view about violent revolution lies at the root of the whole of Marx's and Engels' teaching. The neglect of such propaganda and agitation by both the present predominant social-chauvinist and the Kautskyist currents brings their betrayal of Marx's and Engels' teaching into prominent relief.

"The replacement of the bourgeois by the proletarian state is impossible without a violent revolution. The abolition of the proletarian state, i. e., of all states, is only pos- [fol. 2178] sible through 'withering away'.

"Marx and Engels gave a full and concrete exposition of these views in studying each revolutionary situation separately, in analysing the lessons of the experience of each individual revolution."

Now, do you say that does not advocate a violent revolution?

A. That is right.

Q. Now, I show you——

A. As I explained to the jury in my direct testimony.

Q. I show you the "Dictatorship of the Proletariat", and which is Commonwealth's Exhibit—I think it's 168, the "Dictatorship of the Proletariat" written by Lenin and found in the Communist Headquarters, as was the other book.

Mr. Nelson: Isn't this Exhibit No. 17?

Mr. Cercone: Yes, it is, but there are three or four marks on it.

Mr. Cercone:

Q. Exhibit No. 17, and direct your attention to Page 49— Now, I direct your attention to the same book, Page 52— I direct your attention to Page 69.

Now, the first page I directed your attention to was 49:

"Can such a radical transformation of the old bourgeois [fol. 2179] system of society be achieved without a violent revolution, without the dictatorship of the proletariat?

"Obviously not. To think that such a revolution can be carried out peacefully within the framework of bourgeois democracy, which is adapted to the domination of the bourgeoisie, means one of two things. It means either madness, and the loss of normal human understanding, or else an open and gross repudiation of the proletarian revolution."

Now, you say that doesn't call for violence?

Mr. Nelson: It talks about Russia. Doesn't it talk about Russia?

Mr. Cercone: Yes, and using it in classes every day.

The Court: Who are you directing your attention to, Mr. Cercone, the defendant?

Mr. Cercone: Only because he is directing his attention to me.

Mr. Nelson: That talks about a different place.

[fol. 2180] The Court: Refrain yourselves from arguing across the counsel table and limit yourselves to the issues before you in cross-examination of this witness.

Mr. Cercone:

Q. Now, does that advocate forcible and violent revolution?

A. As I replied in direct testimony——

Q. I am just asking you, does that advocate forcible and violent revolution?

A. I am answering your question. As I stated in two days of direct testimony, in thirty excerpts dishonestly presented, as this one is in the indictment, these excerpts are written during 1917 and 1919, most of them in Russia. That is point No. 1.

Point No. 2: These refer to the fact that generality which is included in the excerpt you made, not always, generally, when a majority of the people have become convinced,

through life and through the intolerable conditions of life, they desire a different system of society, a different organization of life and when they express this desire willingly and peacefully; always hitherto they have been set upon with violence and terror, I said, and I say again the counter-revolutionists, the reactionaryists, the minority, the handful resort to force and violence in order to block, in [fol. 2181] blood, the desires of the majority of the people.

Q. Is that what that says?

A. Yes.

Q. That's all I want to know.

A. It says something else. Do you want me to answer this question?

Q. All right, finish it.

The Court: Well, we don't want you to repeat all of your direct testimony on it, Doctor.

Mr. Nelson: Your Honor, I submit that the quotations were brought in by direct testimony——

The Court: They were fully discussed by the Doctor on direct examination.

A. In many cases the same quotation.

The Court: That is the reason I didn't want you to repeat in full your direct testimony but rather this is your conclusions drawn from the previous discussion of them that he was soliciting at that time.

[fol. 2182] Mr. Cercone:

Q. Now, you have given this statement several times that this book was written——

A. No, I didn't say that at all.

Q. Was used or applicable—what did you say about this book?

A. I said the excerpts you cited——

Q. You said something about the time this book was written.

A. I'll tell you exactly what I said. The excerpts which you quoted were excerpted from statements made in 1919 to 1920.

Q. And this book here is printed in 1936, is that right?

A. The volume, yes, sir.

Q. Now, I read this——

A. The Declaration of Independence was written in 1776 and is still reprinted and you cannot understand it unless you know that it was written in 1776.

Q. Let's not argue about that.

A. I'm not arguing, I'm trying to instruct——

The Court: Refrain from instructing.

Mr. Cercone:

Q. Now, you say you looked at Page 52, and I will read it for you. "The scientific concept, dictatorship, means nothing more nor less than power that directly rests on violence, that is not limited by any laws or restricted by an absolute rules . . . Dictatorship means—not this once [fol. 2183] and for all, Messrs. Cadets—unlimited power, resting on violence and not on law. During civil war, victorious power can only be dictatorship." Now, I will just ask you this question. Does that advocate violence?

A. No, it refers to the civil war. I will give you a quotation almost the same as that from Thomas Jefferson. Would you like me to give it to you?

Q. Let me ask you this. When Aaron Burr advocated the revolution, didn't Thomas Jefferson arrest him and put him in jail?

A. He never advocated a revolution.

Q. What did he advocate?

A. Counter-revolution. He advocated treason; he advocated going back to monarchy. Do you want to ask me about Aaron Burr or don't you?

Q. You're not testifying——

A. You were asking me the questions and didn't you tell me about Aaron Burr? I'll tell you about Aaron Burr.

Q. Tell us about the Soviet Union.

The Court: I am admonishing both you gentlemen, both the District Attorney and the witness likewise to limit himself to questions and you to answers.

[fol. 2184] Mr. Cercone:

Q. Now, on Page 69 Lenin said, "Today, in 1917, in the epoch of the first great imperialist war, Marx's exception

is no longer valid. Both England and America, the greatest and last representatives of Anglo-Saxon 'liberty' in the whole world, in the sense that militarism and bureaucracy are absent, have tod-y plunged headlong into the all-European, filthy, bloody morass of military bureaucratic institutions to which everything is subordinated and which trample everything underfoot. Today, both in England and America, the essential thing for ev ry real people's revolution is the smashing, the destruction of the 'ready-made' state machinery (brought in those countries, between 1914 and 1917, to general 'European' imperialist perfection."

Does that advocate violence?

A. The answer to that is the same as my previous answer. Please observe that the quotation begins in 1917.

Q. "The proletarian revolution is impossible without the forcible destruction of the bourgeois state machine and the substitution for it of a new one."

Does that advocate violence?

A. No.

Q. Now, I show you—I think it's Commonwealth's Exhibit No. 21, being the "History of the Communist Party of the Soviet Union" which you stated in your direct testi- [fol. 2185] mony that Joseph Stalin was one of the writers, is that correct?

A. Yes.

Q. And I show you Page 9——

The Court: What exhibit?

Mr. Cercone: I think it's 21, your Honor.

The Court: Page 9?

Mr. Cercone: Yes.

Mr. Cercone:

Q. I read this from "History of the Communist Party of the Soviet Union" which was found in the Headquarters of the Communist Party of Pennsylvania, under the control of Steve Nelson: "Marx and Engels taught that it was impossible to get rid of the power of capital and to convert capitalist property into public property by peaceful means, and

that the working class could achieve this only by revolutionary violence against the bourgeoisie, by a proletarian revolution, by establishing its own political rule—the dictatorship of the proletariat—which must crush the resistance of the exploiters and create a new, classless, Communist Society."

Does that advocate violence?

[fol. 2186] A. In the same way I explained many times for the two and a half days, it does not in the sense you are using it, this definitely does not.

Mr. Cercone: May we have a recess at this time? There is a quotation that I would like to find.

The Court: However, if you wish to resume at one instead of 1:15, we will lose no time.

Mr. Cercone: That will be all right, your Honor.

The Court: We will recess until 1:00 o'clock.

Noon recess.

[fol. 2187] Monday, January 21, 1952

Afternoon Session

Dr. Herbert Aptheker recalled.

Mr. Cercone: May we come to side bar, your Honor.

The Court: Come forward.

Mr. Cercone: Your Honor, I would like to argue this point made out concerning this witness with the expression about members of the Party and if I could we could recess the members of the Jury for half an hour.

The Court: Do you have any cases on it?

Mr. Cercone: I don't have any cases but we are working on it at the library, but I would like to get something on the record, and there is no use of holding up the Jury.

The Court: We generally don't take down the arguments made.

Mr. Cercone: We discussed that in the District Attorney's [fol. 2188] office here and we come to this conclusion that the witness gave his opinion on Communism and he gave an opinion on excerpts taken from books—Lenin is not here—Stalin is not here. He gave an opinion on lack of associa-